CLERK'S COPY.

Vol. I

TRANSCRIPT OF RECORD

(Pages 1 to 485)

Supreme Court of the United States

OCTOBER TERM, 1945

No. 14

LLOYD C. DUNCAN, PETITIONER,

vs.

DUKE PAOA KAHANAMOKU, SHERIFF OF THE CITY AND COUNTY OF HONOLULU

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR CERTIORARI FILED DECEMBER 29, 1944.

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United States

Circuit Court of Appeals

For the Ninth Circuit.

DUKE PAOA KAHANAMOKU, Sheriff of the City and County of Honolulu,

Appellant,

vs.

LLOYD C. DUNCAN,

Appellee.

Transcript of Record

In Three Volumes

VOLUME I

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Rotary Colorprint, 590 Folsom St., San Francisco

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and performance of their official duties as sentries at the Main Gate, Navy Yard, Pearl Harbor, T. H., contrary to General Orders #2, Par. 8.01 of the Military Governor, Territory of Hawaii. (10 March 1943).

(Signature of Accuser)

LT. (jg) GENE A. TRINI

AFFIDAVIT

Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 29 day of February A.D. 1944, and made oath that he is a person subject to military law and that he personally signed the foregoing charge and had investigated the matters set forth in the charge, and that the same are true in fact, to the best of his knowledge and belief.

ARTHUR L. MUNDO
Lt. Cmdr., U. S. Navy (Ret)
Provost Court
Case No. P. H. 650-44

The Charge	Plea	Findings	Sentence or Acquittal or Remarks
Forgoing			

Pearl Harbor, T.H. 29 February 1944

ARTHUR L. MUNDO
Lt. Cmdr., U. S. Navy (Ret)
Provost Court [10]

EXHIBIT B

Mitt. Number PH 6-44
Case Number PH 650-44
Pearl Harbor
Provost Court of City and County of Honolulu
Territory of Hawaii

MITTIMUS

The Territory of Hawaii:

To the High Sheriff of the Territory of Hawaii, or his Deputy; the Sheriff of the City and County of Honolulu, or his Deputy;

LLOYD CLIFFORD DUNCAN

having been convicted in the Provost Court of Pearl Harbor, City and County of Honolulu, of the Offense of, to wit:

General Order #2 Paragraph 8.01

The Lloyd Clifford Duncan, at Pearl Harbor T.H., on the 24th day of February 19, 1944, did unlawfully, wilfully and maliciously assault, strike, beat and ill treat Robert C. Bowerman, Corporal USMC, and J. C. Hunter, pfc, USMC, with intent to resist, prevent, hinder and obstruct the said Robert C. Bowerman and J. C. Hunter in the lawful discharge, execution and performance of their official duties as sentries at the Main Gate, Navy Yard, Pearl Harbor, T.H., contrary to General Orders #2 Paragraph 8.01 of the Military Governor of the Territory of Hawaii (10 March 1943)

NAMES AND ADDRESSES OF ATTORNEYS OF RECORD

For the Petitioner, Lloyd C. Duncan,

J. GARNER ANTHONY, Esquire, of the firm Robertson, Castle & Anthony,
Castle & Cooke Building, Honolulu, T. H.

For the Respondent, Duke Paoa Kahanamoku, Sheriff, City and County of Honolulu, Territory of Hawaii.

G. D. CROZIER, Esquire, United States District Attorney, District of Hawaii,
Federal Building, Honolulu, T. H.

EDWARD A. TOWSE, Esquire, Assistant United States District Attorney, District of Hawaii,
Federal Building, Honolulu, T. H.

EDWARD J. ENNIS, Esquire, Special Assistant to the Attorney General of the United States,
Washington, D. C.

LIEUT. COL. WILLIAM J. HUGHES, Jr.,
Judge Advocate General's Department,
Washington, D. C.

LIEUT. COL. EUGENE V. SLATTERY,
Office of the Military Governor,
Honolulu, Hawaii. [1*]

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* Page numbering appearing at foot of page of original Reporter's Transcript of Record.

In the United States District Court
For the Territory of Hawaii

Habeas Corpus No. 298

In the Matter of the Application of
LLOYD C. DUNCAN
For a Writ of Habeas Corpus.

CLERK'S STATEMENT

Time of Commencing Suit:
March 14, 1944
Petition filed

Names of Original Parties:
Lloyd C. Duncan, Petitioner
Duke Paoa Kahanamoku, Respondent

Dates of Filing Pleadings:
March 14, 1944
Petition filed
March 14, 1944
Order to Show Cause issued
March 20, 1944
Motion for an order granting time within which to file return, answer or otherwise plead to order to show cause filed
March 29, 1944
Return and Answer to Order to Show Cause filed
April 4, 1944
Traverse
March 31, 1944
Writ issued

Date of Filing Findings and Conclusions
April 13, 1944
Findings and Conclusions filed

Date of Filing Judgment
April 20, 1944
Judgment filed

Proceedings in the above entitled matter were had before the Honorable J. Frank McLaughlin and the Honorable Delbert E. Metzger, District Judges.

[2]

Dates of Filing Appeal Documents:
April 20, 1944
Exceptions to Findings and Conclusions
Order on Taking Appeal
Notice of Appeal

April 26, 1944
Respondent Appellant's Designation of Record

April 27, 1944
Petitioner's Counter Designation of Record
Release of Petitioner on his Own Recognizance

CERTIFICATE OF CLERK AS TO THE ABOVE STATEMENT

United States of America
Territory of Hawaii—ss.

I, Wm. F. Thompson, Jr., Clerk of the United States District Court for the Territory of Hawaii,

do hereby certify the foregoing to be a full, true and correct statement showing the time of commencement of the above entitled cause; the names of the original parties; the several dates when respective pleadings were filed; the date the Findings and Conclusions was filed; the date the Judgment was filed; the names of the judges presiding and the dates when appeal documents were filed in the above entitled cause.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said District Court this day of April, A. D. 1944.

WM. F. THOMPSON, JR., Clerk,
U. S. District Court,
Territory of Hawaii. [3]

[Title of District Court and Cause.]

PETITION

To the District Court of the United States for the Territory of Hawaii,

Comes now Lloyd C. Duncan, petitioner above named and respectfully shows as follows:

I.

That petitioner is a citizen of the United States of America and of the State of Wyoming and is temporarily living in the Territory of Hawaii and is employed as a civilian worker at Pearl Harbor, Island of Oahu, T. H.;

II.

That respondent, Duke Paoa Kahanamoku, is the duly elected, qualified and acting sheriff of the City and County of Honolulu and as such has the custody of all prisoners detained in the City and County jail situated in the city of Honolulu in the District of Iwilei;

III.

That on the 24th day of February 1944, petitioner was lawfully on the U. S. Naval Reservation at Pearl Harbor, Oahu, T.H., about to report to his work on said reservation, at which time and place petitioner had a trivial argument with a U.S.M.C. sentry at the main gate on the matter of [5] transportation and as a result of which the said sentry assaulted petitioner and placed him under arrest; that thereafter petitioner was turned over to the civil police, held in custody until the following day and was then discharged; that on or about February 29, petitioner was summoned to appear before a tribunal known as the "Provost Court of Pearl Harbor, City and County of Honolulu"; that on March 2, 1944, petitioner was tried before said provost court, Arthur L. Mundo, Lt. Comdr., USN (Ret.) upon the false charge that petitioner assaulted two U.S.M.C. sentries (who at the time and place in question were fully armed with sidearms and clubs) with intent to obstruct them in the performance of their duties; a copy of which charge is hereto attached, made a part hereof and marked Exhibit A;

IV.

That on March 2, 1944, petitioner was tried before the aforesaid provost court without counsel and was found guilty of said charges by Arthur L. Mundo, Lt. Comdr., USN (Ret.) and was sentenced to be imprisoned in the City and County of Honolulu jail for a term of six months; that a copy of the mittimus delivered to the sheriff of the City and County of Honolulu ordering said Sheriff to execute said sentence is hereto attached, made a part hereof and marked Exhibit B;

V.

That the trial and conviction of petitioner before said provost court was not in accordance with the Constitution and the laws of the United States or the laws of the Territory of Hawaii and is null and void; that notwithstanding the [6] unlawful trial and conviction of petitioner as aforesaid petitioner is imprisoned and restrained of his liberty by the said Duke Paoa Kahanamoku, Sheriff of the City and County of Honolulu, acting under color of authority of the United States of America;

VI.

That petitioner is now unlawfully imprisoned under color of authority of the United States in violation of the Constitution and laws of the United States; that City and County jail in which said prisoner is confined is situated less than twenty miles from the courtroom of this Honorable Court;

VII.

That on December 7, 1941, the Governor of Hawaii pursuant to Section 67 of the Hawaiian Organic Act by proclamation placed the Territory of Hawaii under martial law; that the Governor of Hawaii on February 8, 1943, issued a proclamation which substantially restored civil authority in the Territory of Hawaii, copies of said proclamations are hereto attached, made a part hereof and marked Exhibits C and D respectively; that although the factual situation on December 7, 1941 and for a short time thereafter justified the executive determination that Hawaii was in imminent danger of invasion, that circumstance, long prior to the unlawful trial and conviction of petitioner had passed; that for more than a year last past all civil authorities both Federal and Territorial including the civil and criminal courts of the United States and of the Territory of Hawaii have been functioning in accordance with law; that for more than a year last past there has existed no real or apparent threat of invasion of Hawaii and accordingly the [7] state of martial law does not now lawfully exist within the Territory of Hawaii;

VIII.

The irrespective of the existence or non-existence of a state of martial law within the Territory of Hawaii, at the time of petitioner's trial (March 2, 1944) by the provost court there existed no military necessity for the trial of petitioner, a civilian, for the offense of assault and battery before a military tribunal and there was and is no justification

for denying petitioner the kind of a trial which is guaranteed to him under the Constitution and laws of the United States.

Wherefore, your petitioner prays that a writ of habeas corpus be issued out of this Honorable Court directed to Duke Paoa Kahanamoku, Sheriff of the City and County of Honolulu, commanding him to produce the body of Lloyd C. Duncan before this court at a time and place therein to be specified, then and there to receive and do what this court shall order concerning the detention and restraint of the said Lloyd C. Duncan; that the said Lloyd C. Duncan be ordered discharged from the detention and imprisonment aforesaid.

Dated: Honolulu, T. H., March 14, 1944.

/s/ LLOYD C. DUNCAN

Territory of Hawaii,
City and County of Honolulu—ss.

Lloyd C. Duncan, being first duly sworn on oath deposes and says that he is the petitioner in the above entitled action; that he has read the petition, knows the contents thereof and that the same are true.

/s/ LLOYD C. DUNCAN

Subscribed and sworn to before me this 14 day of March, 1944.

/s/ CHARLES Y. AWANA
Notary Public, First Judicial Circuit, Territory of Hawaii.

My commission expires June 30, 1945. [8]

NOTICE

To G. D. Crozier, United States Attorney:

Please take notice that the foregoing application of Lloyd C. Duncan for a writ of habeas corpus will be heard before the Honorable J. Frank McLaughlin, United States District Judge in his court room at 2 o'clock P. M. on March 14th, 1944.

/s/ GARNER ANTHONY,
Attorney for petitioner. [9]

EXHIBIT A

Provost Court Proceedings
In Session
Pearl Harbor, T. H., 29 February 1944

Name of accused: Lloyd Clifford Duncan, #116086
Residence:
Citizenship: USA Age: Where Employed:
Descent: (father) (Mother)
Witness for Prosecution:
Witnesses for Accused:
Copy of charge furnished accused.
Documentary Evidence:
Arresting Officer: Cpl. Bowerman, USMC
Charge: General Orders #2, Paragraph 8.01

That Lloyd Clifford Duncan, at Pearl Harbor, T. H., on the 24th day of February, A. D., 1944, did unlawfully, wilfully and maliciously assault, strike, beat and ill treat Robert C. Bowerman, Corporal, U.S.M.C. and J. C. Hunter, PFC, U.S.M.C., with intent to resist, prevent, hinder and obstruct the said Robert C. Bowerman and J. C. Hunter in the lawful discharge, execution

Building, Honolulu, Territory of Hawaii, is hereby waived.

ROBERTSON, CASTLE & ANTHONY
By GARNER ANTHONY (Signed)
Attorneys for Petitioner

[Endorsed]: Filed March 20, 1944. [22]

[Title of District Court and Cause.]

ORDER

Good cause appearing therefor;

It Is Hereby Ordered that the motion of Duke Paoa Kahanamoku, Respondent in the above entitled proceeding for an enlargement of time within which to file a return, answer or otherwise plead to the Order to Show Cause heretofore issued in the above entitled proceeding is hereby granted; and the said Respondent is hereby allowed until 10:00 a. m. Friday March 31, 1944, to file a return, answer or otherwise plead to the Order to Show Cause.

Dated: Honolulu, T. H., this 20th day of March, 1944.

(Signed) DELBERT E. METZGER,
Judge United States District Court for the Territory of Hawaii

[Endorsed]: Filed March 20, 1944. [24]

[Title of District Court and Cause.]

RETURN AND ANSWER TO ORDER TO SHOW CAUSE

To The Honorable Delbert E. Metzger, Judge Of The United States District Court In And For The Territory of Hawaii:

Comes now Duke Paoa Kahanamoku, as Sheriff of the City and County of Honolulu hereinafter referred to as the respondent, and in return and answer to the order to show cause in the above-entitled matter on March 14, 1944, upon him duly served at 9:05 A.M., March 15, 1944, and in answer to the petition heretofore filed in said matter by said Lloyd C. Duncan, upon which said order to show cause was made, respectfully states that he has in his custody the said Lloyd C. Duncan, denies that he unjustly, unlawfully, and without cause imprisons or restrains the petitioner, Lloyd C. Duncan, of his liberty, makes the following answer, represents, alleges, admits and denies, and shows cause, as follows, to wit:

I.

As to paragraphs 1 to 8 inclusive in said petition contained the respondent admits and d e n i e s, a s follows:

1.

Respondent admits the allegations contained in paragraph I of the petition. [26]

and by said Court on this day sentenced to be imprisoned in the Honolulu Jail for the term of

Six (6) Months

and to pay a fine of XXXXX XXXXX Dollars, or to be imprisoned in the Honolulu Jail until said Fine be paid:

You Are Ordered to take said Lloyd Clifford Duncan into your custody, and to cause said sentence to be executed. Hereof fail not.

Given Under My Hand This 2nd day of March, A.D. 1944.

(S) ARTHUR L. MUNDO
Arthur L. Mundo
Lt. Cmdr. US Navy (Ret)
Provost Court [11]

EXHIBIT C

Territory of Hawaii

A Proclamation

Whereas, it is provided by Section 67 of the Organic Act of the Territory of Hawaii, approved April 30, 1900, that, whenever it becomes necessary, the Governor of that territory may call upon the commander of the military forces of the United States in that territory to prevent invasion; and

Whereas, it is further provided by the said section that the governor may in case of invasion or imminent danger thereof, when the public safety requires it, suspend the privilege of the writ of habeas corpus and place the territory under martial law; and

Whereas, the armed forces of the Empire of Japan have this day attacked and invaded the shores of the Hawaiian Islands; and

Whereas, it has become necessary to repel such attack and invasion; and

Whereas, the public safety requires;

Now, Therefore, I, J. B. Poindexter, Governor of the Territory of Hawaii, do hereby announce that, pursuant to said section, I have called upon the Commanding General, Hawaiian Department, to prevent such invasion;

And, pursuant to the same section, I do hereby suspend the privilege of the writ of habeas corpus until further notice;

And, pursuant to the same section, I do hereby place the said territory under martial law;

And, I do hereby authorize and request the Commanding General, Hawaiian Department, during the present [12] emergency and until the danger of invasion is removed, to exercise all the powers normally exercised by me as Governor;

And I do further authorize and request the said Commanding General, Hawaiian Department, and those subordinate military personnel to whom he may delegate such authority, during the present emergency and until the danger of invasion is removed, to exercise the powers normally exercised by judicial officers and employees of this territory and of the counties and cities therein, and such other and further powers as the emergency may require;

And I do require all good citizens of the United

States and all other persons within the Territor
of Hawaii to obey promptly and fully, in lett
and in spirit, such proclamations, rules, regulatio
and orders, as the Commanding General, Hawaii
Department, or his subordinates, may issue duri
the present emergency.

In Witness Whereof, I have hereunto set m
hand and caused the seal of the Territory of Haw
to be affixed.

Done at Honolulu Territory of Hawaii, this 7
day of December, 1941.

[Seal] (s) J. B. POINDEXTER
Governor of the Territory
Hawaii.

By the Governor:
CHAS. M. HITE
Secretary of Hawaii.
3:30 P.M.

A true and correct copy:
JAMES F. HANLEY
Major, J.A.G.D.

EXHIBIT D

By the Governor of Hawaii
A Proclamation

Feb 8 1943

Whereas, the Governor of Hawaii by his proc
mation of December 7, 1941, placed the Territory
Hawaii under martial law, in exercise of his powe
under section 67 of the Organic Act, which actio

was confirmed by the President of the United States on December 8, 1941; and

Whereas, a state of martial law remains in effect and the privilege of the writ of habeas corpus remains suspended;

Now, Therefore, I, Ingram M. Stainback, Governor of Hawaii, under the authority given by section 67 of the Organic Act, do hereby proclaim:

1. The Governor of Hawaii and the other civilian officers and agencies of the federal, the territorial and the local governments, will resume on the thirtieth day hereafter their respective jurisdictions, functions and powers, according to law, with respect to the following matters, and others necessarily related thereto:

(a) Control of prices

(b) Rationing of commodities among the civilian population.

(c) Control of hospitals, medical personnel, and medical supplies

(d) Food production by and distribution of food among the civilian population

(e) Control of rents

(f) Control of transportation and traffic by land, except the movement of troops, military supplies and equipment, and except that the Commanding General may prescribe rules for the traffic during blackout hours

(g) Public health, sanitation, and prevention of disease among civilians

(h) Licensing of businesses, regulation of hours of business, and types of forbidden occupations

(i) Judicial proceedings, both criminal and civil, except: [13]

(1) Criminal prosecutions against members of the armed forces. Members of auxiliary armed forces shall be included within the term "armed forces" after induction into the service and also before induction in respect of any act or omission certified by the Commanding General to be in the line of duty.

(2) Civil suits against members of the armed forces, as defined in subparagraph (1), in respect of any act or omission certified by the Commanding General to be in the line of duty.

(3) Criminal prosecutions for violations of military orders.

The Commanding General may waive the above exception with respect to any particular prosecution or suit, or any class of prosecutions or suits, thereby permitting such prosecutions or suits to be tried in the appropriate court of the Territory or in the United States District Court for Hawaii, as the case may be.

(j) Control of imports for civilian consumption and exports by civilians within allotments of tonnage made by the Commanding General

(k) Censorship of mail from civilians in the Territory

(l) Control of liquor and narcotics

(m) Schools and children

(n) The custody of alien property

(o) Collection and disposition of garbage, ashes, and other waste

(p) Banking, currency, and securities, provided that the Commanding General may proscribe the measures to be taken to prevent the enemy from obtaining securities or money or realizing upon them if he should obtain them

(q) Civilian defense activities, except that the Commanding General shall have jurisdiction to prescribe the duties of the Civilian Defense Corps, and to regulate and inspect their training

(r) Control of the supply, employment, hours, wages, and working conditions of labor, except as to (1) employees of the United States under the War Department or the Navy Department, (2) workers employed on construction and other projects under the War Department or the Navy Department, (3) stevedores and other workers employed on docks and dock facilities, and (4) employees of public utilities. It is contemplated that the Commanding General and the Governor of Hawaii by mutual agreement will appoint a joint advisory committee which shall from time to time consult and advise with each of them with reference to labor matters in their respective fields. [14]

2. For the purposes of the defense of the Hawaiian Islands and for their preparation for use as a base for offensive operations, the Commanding General shall continue so far as he deems the military security of the Territory to require, to exercise full jurisdiction over all matters over which he now has jurisdiction except such as are resumed by civil

authorities pursuant to paragraph 1 of this proclamation.

3. Whenever the Commanding General, in the light of an existing military emergency or in anticipation of any military emergency, considers it necessary for the security of the islands or their use as a military or naval base, he shall have power, upon a written declaration of the existence or the anticipation of a miltitary emergency, to exercise such of the functions and jurisdictions as are hereby or may hereafter be resumed by the civil authorities, or to issue such additional military orders, after consultation with the Governor of the Territory where civilian rights and the administration of the civilian government are affected, directing such action as in the judgment of the Commanding General may be required for the military security of the Territory.

4. Nothing in this proclamation shall operate to invalidate any conviction, or any application of military orders to persons or activities, or any other action, which occurred or shall occur prior to the thirtieth day hereafter.

5. I call upon all good citizens of the United States and all other persons within the Territory of Hawaii to obey promptly and fully, in letter and spirit, such orders as the Commanding General may issue under this proclamation and during the continuance of the state of martial law.

Done at Honolulu, Territory of Hawaii, this 8 day of Feb, 1943.

INGRAM M. STAINBACK,
Governor of Hawaii. [15]

Attest: A true copy
WM. F. THOMPSON, Jr.,
Clerk, United States District Court, Territory and District of Hawaii.
By /s/ E. C. ROBINSON
Deputy

[Endorsed]: Filed Mar. 14, 1944. [15-a]

[Title of District Court and Cause.]

ORDER TO SHOW CAUSE

Good cause appearing therefor and upon the reading of the verified petition filed in the above cause:

It Is Hereby Ordered that Duke Paoa Kahanamoku, Sheriff of the City and County of Honolulu, appear before this court on Monday, the 20th day of March 1944 at 10 o'clock A.M. to show cause if any he has why a writ of habeas corpus should not be issued herein as prayed for and that a copy of this order and the petition filed herein be served upon the said Duke Paoa Kahanamoku, Sheriff of the City and County of Honolulu.

Dated: Honolulu, Hawaii, March 14th, 1944.
(Signed) J. FRANK McLAUGHLIN
United States District Judge

[17]

United States Marshal's Office.
Marshal's Return.

The within Order to Show Cause was received by me on the 14th day of March, A.D. 1944, and is returned executed this 15th day of March, A.D. 1944 upon Duke Paoa Kahanamoku, Sheriff of the City and County of Honolulu at his office in the City Hall at 9:05 a.m. by exhibiting to him the original Order to Show Cause and by handing to and leaving with him a certified copy of this order together with the petition attached thereon.

Dated at Honolulu, T. H. this 15th day of March, A.D. 1944.

OTTO F. HEINE (Signed)
U. S. Marshal, District of Hawaii.

Marshal's Civil Docket
No. 2455
Court No. 298
Fees.....$2.06
Expenses.....
Total.....$2.06

[Endorsed]: Filed Mar 15 1944. [18]

[Title of District Court and Cause.]

MOTION FOR AN ORDER GRANTING ENLARGEMENT OF TIME WITHIN WHICH TO FILE RETURN, ANSWER OR OTHERWISE PLEAD TO ORDER TO SHOW CAUSE

Comes now Duke Paoa Kahanamoku, Sheriff of the City and County of Honolulu, Territory of Hawaii, Respondent in the above entitled cause, by and through G. D. Crozier, United States Attorney, District of Hawaii, and moves this Honorable Court for an order granting enlargement of time of ten days, to 10:00 a.m. Friday March 31, 1944, within which to file a return, answer or otherwise plead to the Order to Show Cause heretofore issued in the above entitled proceeding.

That this motion made at the request of the Honorable Francis Biddle, Attorney General of the United States, who has informed counsel for Respondent that representatives of the War Department and Department of Justice are being sent from Washington, D. C. to the Territory of Hawaii to participate in this proceeding.

That the enlargement of time of ten days within which to respond to the Order to Show Cause for which this motion is made is deemed necessary to permit arrival and participation of such representatives in this proceeding.

This motion is based upon the files and records of this proceeding and upon the affidavit of G. D. Crozier, United States Attorney, District of Ha-

waii, Attorney for the Respondent hereto attached and expressly made a part hereof.

Dated: Honolulu, T. H., this 20th day of March, 1944.

DUKE PAOA KAHANAMOKU,
Sheriff of the City and County of Honolulu, Territory of Hawaii, Respondent
By G. D. CROZIER (Signed)
United States Attorney
District of Hawaii
Attorney for Respondent.

[20]

AFFIDAVIT

City & County of Honolulu
Territory of Hawaii—ss.

G. D. Crozier, being first duly sworn, deposes and says:

That he is the duly appointed, qualified and acting United States Attorney for the District of Hawaii; that on March 19, 1944, affiant received a radiogram from the Honorable Francis Biddle, Attorney General of the United States, reading as follows:

"Expedite 1690 67 US Gvt—Washington DC
18 532 PASSF
Rapid G. D. Crozier 1944 Mar 18 pm 7:38
United States Attorney Honolulu TH.

Representatives of War and Justice Departments conversant with government policies involved being sent at once to Hawaii to participate in presentation of Government's position in pending Duncan habeas corpus proceeding. Please request ten day adjournment for response to Order to Show Cause now due March twentieth to permit arrival and participation of these representative.

"FRANCIS BIDDLE
Attorney General."

Further affiant sayeth naught.

Dated: Honolulu, T. H., this 20th day of March, 1944.

G. D. CROZIER (Signed)
United States Attorney
District of Hawaii

Subscribed and sworn to before me this 20th day of March, 1944.

THOS. P. CUMMINS (Signed)
Deputy Clerk, United States District Court for the Territory of Hawaii [21]

NOTICE OF MOTION AND WAIVER OF NOTICE

Receipt of a copy of the foregoing motion and affidavit is hereby acknowledged this 20th day of March, 1944 and notice of the hearing thereof at 9:00 a. m. Monday March 20, 1944, before the Honorable Delbert E. Metzger, Judge of the above entitled Court, in his Courtroom in the Federal

sition of Military Governor of the Territory of Hawaii as aforesaid on June 1, 1943.

9.

That the Honorable Ingram M. Stainback, as Governor of the Territory of Hawaii, by proclamation dated February 8, 1943, a copy of which proclamation is attached to this answer as Exhibit "G" and incorporated into this answer by reference thereto as though fully set forth herein, proclaimed that a state of martial law remains in effect and that the privilege of the writ of habeas corpus remains suspended within the Territory [37] of Hawaii; that the respondent is informed and believes and thereupon alleges that the proclamation of the Honorable Joseph B. Poindexter, as Governor of the Territory of Hawaii, made on December 7, 1941, that he had suspended the privilege of the writ of habeas corpus and had placed the Territory of Hawaii under martial law, other than as set forth by the aforesaid proclamation of the Honorable Ingram M. Stainback, made on February 8, 1943, as aforesaid, remains in full force and effect within the Territory of Hawaii; that the respondent is informed and believes and thereupon alleges that the aforesaid proclamation of the Honorable Ingram M. Stainback, as Governor of the Territory of Hawaii, made on February 8, 1943, as aforesaid, that a state of martial law remains in effect and the privilege of the writ of habeas corpus remains suspended, now is in full force and effect and has been in full force and effect as provided by the

terms and conditions thereof at all times ... the same was made, proclaimed, and issued on February 8, 1943, as aforesaid; that the respondent is informed and believes and thereupon alleges that prior to the issuance of the aforesaid proclamation by the Honorable Ingram M. Stainback, as aforesaid, conferences were held at Washington, D. C., between the Secretary of War, the Attorney General of the United States, Warner W. Gardner, Ingram M. Stainback, Governor of the Territory of Hawaii, Abe Fortas, Undersecretary of the Department of the Interior, Delos C. Emmons, Lieutenant General, The Commanding General, Hawaiian Department, and John J. McCloy, Assistant Secretary of War, at which it was agreed, among other matters, by the aforesaid persons present at said conferences, that the suspension [38] of the privilege of the writ of habeas corpus was to continue within the Territory of Hawaii after the effective date of the aforesaid proclamation of the Honorable Ingram M. Stainback, Governor of the Territory of Hawaii, and that martial law was to continue in force and effect in the Territory of Hawaii after the effective date of the aforesaid proclamation, subject, however, to the provisions of said proclamation; that no recommendation would be made to the President that either the suspension of the privilege of the writ or martial law should be terminated; that the respondent is informed and thereupon alleges that on January 18, 1943, the Secretary of War, the Attorney General of the United States, and the Secretary of the

2.

Respondent admits the allegations in paragraph II of the petition herein.

3.

Respondent denies all allegations contained in paragraph III of the petition herein except such as allege that on the 24th day of February, 1944, petitioner was in and upon the United States Naval Reservation at Pearl Harbor, Territory of Hawaii; that he was there arrested by a United States Marine Sentry; that at the time of said arrest the sentries mentioned in said paragraph III of the petition were armed and possessed clubs; that he was thereafter turned over to civil police, held in custody until the following day and was then released; that on February 29, 1944 petitioner was summoned to appear before the Provost Court of Pearl Harbor, T. H.; that on March 2, 1944, petitioner was tried before said Provost Court, Arthur L. Mundo, Lieutenant Commander, U.S.N. (Ret.) upon the charge set forth in Exhibit "A" as attached to the petition; which the respondent admits.

4.

Respondent admits the allegations contained in paragraph IV of the petition but denies that the charges therein mentioned were false and alleges that the petitioner waived representation by counsel in the said proceedings before the said Provost Court.

5.

The respondent denies all of the allegations contained in paragraph V of the petition excepting

such as allege that petitioner is imprisoned and restrained of his liberty by the respondent pursuant to Exhibit "B" attached to said petition, which the respondent admits. [27]

6.

That respondent denies all of the allegations contained in paragraph VI of said petition excepting such as allege that the Petitioner is imprisoned under color of authority of the United States and that the City and County jail in which said petitioner is confined is situated less than twenty miles from the court room of this Honorable Court which allegation the respondent admits.

7.

Respondent denies the allegations contained in paragraph VII of the petition excepting such as allege that on December 7, 1941 the Governor of the Territory of Hawaii, pursuant to Section 67 of the Hawaiian Organic Act by proclamation placed the Territory of Hawaii under martial law, a true copy of which proclamation is attached to the petition as Exhibit "C"; except such as allege that the Governor of Hawaii on February 8, 1943, issued a proclamation, a true copy of which proclamation is attached to the petition and marked Exhibit "D"; except such as allege that the factual situation on December 7, 1941 and thereafter justified the executive determination that Hawaii was in imminent danger of invasion; and except such as allege that for more than a year last past all civil authorities both Fed-

eral and Territorial including the civil and criminal courts of the United States and of the Territory of Hawaii have been functioning in accordance with the Constitution and the laws of the United States and with the laws of the Territory of Hawaii; which allegations the respondent admits.

8.

That with respect to the allegations contained in paragraph VIII of the petition, the respondent denies that the offense for which the petitioner was tried on [28] March 2, 1944, by the Provost Court in said petition elsewhere mentioned was for the offense of assault and battery, but affirmatively alleges that the offense for which the petitioner was so tried at said time before said court was for the offense of unlawfully, wilfully, and maliciously assaulting, striking, beating and ill-treating two Marine sentries at the Main Gate, Navy Yard, Pearl Harbor, T. H., with intent to resist, prevent, hinder and obstruct the said sentries in the lawful discharge and execution and performance of their official duties as sentries at the Main Gate, Navy Yard, Pearl Harbor, T. H., contrary to General Orders No. 2, Paragraph 8.01, of the Military Governor of the Territary of Hawaii dated March 10, 1943. Respondent alleges that at said trial petitioner interposed no objection to being tried by said Provost Court but stated in answer to a question by the Court that he was ready to proceed and in the course of the trial testified in his own behalf.

Respondent further affirmatively alleges that

there was military necessity and justification for the trial of petitioner by said Provost Court on the above-mentioned charge on March 2, 1944;

That other than stated as aforesaid in this paragraph the allegations of Paragraph VIII are denied by the respondent.

II.

And for cause why the writ of habeas corpus prayed for in the petition herein should not be issued and granted, respondent affirmatively alleges as follows:

1.

That the respondent, Duke Paoa Kahanamoku, now is at times mentioned and stated in this return and answer [29] was the duly elected, qualified, and acting Sheriff of the City and County of Honolulu, a municipal corporation of the Territory of Hawaii.

2.

That on February 8, 1941, Walter C. Short, Lieutenant General, United States Army, having theretofore been duly designated by the War Department of the United States as The Commanding General, Hawaiian Department, duly assumed command of the Hawaiian Department and was the duly appointed, qualified, and acting Commanding General of the Hawaiian Department, and duly was in command of the military forces of the United States in the Territory of Hawaii from the time he so assumed the command of the Hawaiian Department on February 8, 1941, until December 17, 1941, both dates inclusive; that on December 17, 1941, Delos C.

Emmons, Lieutenant General, United States Army, having heretofore been duly designated by the War Department of the United States as The Commanding General, Hawaiian Department, duly succeeded the said Walter C. Short, Lieutenant General, United States Army, as the Commanding General, Hawaiian Department; that the said Delos C. Emmons, Lieutenant General, United States Army, was the duly appointed, qualified, and acting Commanding General of the Hawaiian Department, and duly was in command of the military forces of the United States in the Territory of Hawaii, from the time that he so assumed command of the Hawaiian Department on December 17, 1941, until June 1, 1943, both dates inclusive; that Robert C. Richardson, Jr., Lieutenant General, United States Army, having heretofore been duly designated by the War Department of the United States [30] as The Commanding General, Hawaiian Department, duly assumed the command of the Hawaiian Department on June 1, 1943; that the said Robert C. Richardson, Jr., Lieutenant General, United States Army, now is, and ever since said June 1, 1943, has been the duly appointed, qualified, and acting Commanding General of the Hawaiian Department, and duly in command of the military forces of the United States in the Territory of Hawaii.

3.

That Joseph B. Poindexter duly was nominated as Governor of the Territory of Hawaii by the President of the United States on March 7, 1938; that the nomination of said Joseph B. Poindexter as Gov-

ernor of the Territory of Hawaii by the President of the United States as aforesaid, duly was confirmed and ratified by the United States Senate on March 9, 1938, and that said Joseph B. Poindexter thereafter duly qualified as such Governor of the Territory of Hawaii, that the said Joseph B. Poindexter was the duly nominated, qualified, and acting Governor of the Territory of Hawaii, from the time of his nomination as said Governor on March 7, 1938, until August 23, 1942, both dates inclusive; that Ingram M. Stainback duly was nominated as Governor of the Territory of Hawaii by the President of the United States on July 23, 1942; that the nomination of said Ingram M. Stainback as Governor of the Territory of Hawaii by the President of the United States as aforesaid duly was confirmed and ratified by the United States Senate on July 27, 1942; that the said Ingram M. Stainback duly took the oath of office as Governor of the Territory of Hawaii on August 24, 1942; that the said Ingram M. Stainback now is, and ever since August 24, 1942, has been the duly nominated, qualified and acting Governor of the Territory of Hawaii. [31]

4.

That Section 67 of the Organic Act of the Territory of Hawaii, being the Act of April 30, 1900, 31 Sts. at L. 141, c. 339, 48 U. S. C. Sec. 532 and being an act to provide a government for the Territory of Hawaii provides that the Governor of the Territory of Hawaii, shall be responsible for the faithful execution of the laws of the United States and of the Territory of Hawaii, within the said Territory, and that whenever it becomes necessary, he may call

upon the commanders of the military and naval forces of the United States in the Territory of Hawaii, or summon the posse comitatus, or call out the militia of the Territory to prevent or suppress lawless violence, invasion, insurrection, or rebellion in said Territory, or that he may, in case of rebellion or invasion or imminent danger thereof, when the public safety requires it, suspend the privilege of the writ of habeas corpus, or place the Territory of Hawaii, or any part thereof, under martial law until communication can be had with the President of the United States, and his decision thereon made known.

5.

That on December 7, 1941, an attack and invasion was perpetrated upon the Territory of Hawaii by the military and naval forces of the Empire of Japan; that a state of war now exists between the United States and the Empire of Japan and Germany, and has so existed since on or about December 7, 1941; that the respondent is informed by the military and naval authorities of the United States and believes and therefore alleges that the Territory of Hawaii now is in imminent danger of invasion by the armed forces and other agents and agencies of the Empire of Japan, and has remained [32] constantly and continuously in such imminent danger of invasion by such armed forces and other agents and agencies of the Empire of Japan since the aforesaid attack and invasion was perpetrated upon the Territory of Hawaii by the military and naval forces of the Empire of Japan on December 7, 1941.

6.

That the respondent is informed by the military and naval authorities of the United States and believes and therefore alleges that the Territory of Hawaii now is, and at all times since the said attack and invasion thereof by the military and naval forces of the Empire of Japan on December 7, 1941, has been in the actual theater of the war between the United States and the Empire of Japan and Germany; that the Territory of Hawaii now is, and since the attack and invasion thereof, as aforesaid on December 7, 1941, has constantly and continuously been in the theater of operations of the war between the United States and the said Empire of Japan and Germany; that enormous quantities of materials and supplies for the conduct of the said war within the said Territory of Hawaii and in the area area immediately surrounding said Territory of Hawaii, and in the Central and South Pacific Ocean, now are, and since the aforesaid attack and invasion, constantly and continuously have been transported to, within, and from the Territory of Hawaii; that enormous quantities of military, naval, and civilian supplies and equipment and great numbers of military, naval, and civilian personnel for the conduct of said war are now, and since December 7, 1941, have been within the Territory of Hawaii; that the respondent is informed by the military and naval and military authorities of the United States and believes and therefore alleges that the armed forces of the Empire of Japan now are, and ever since the aforesaid attack [33] and invasion of the

Territory of Hawaii on December 7, 1941, have been constantly and continuously waging war against the United States within the Territory of Hawaii, and the vicinity thereof

7.

That on December 7, 1941, the Honorable Joseph B. Poindexter, as the Governor of the Territory of Hawaii, pursuant to a proclamation issued by him on said date as such Governor, a copy of which proclamation is attached hereto as respondent's Exhibit "A" and incorporated herein by reference thereto as though fully set forth herein, called upon the said Walter C. Short, Lieutenant General, United States Army, The Commanding General, Hawaiian Department to prevent said invasion by the armed forces of the Empire of Japan, and suspended the privilege of the writ of habeas corpus and placed the Territory of Hawaii under martial law until communication could be had with the President of the United States and his decision thereon made known; that the said Walter C. Short, Lieutenant General, United States Army, The Commanding General, Hawaiian Department, pursuant to a proclamation, a copy of which proclamation is attached hereto as Exhibit "B" and incorporated into this answer by reference thereto as though fully set forth herein, accepted the aforesaid call made upon him by the Honorable Joseph B. Poindexter, as Governor of the Territory of Hawaii; that the respondent is informed and believes and thereupon alleges that the public safety of the Territory of Hawaii required

that the Honorable Joseph B. Poindexter, as Governor of the Territory of Hawaii, suspend the privilege of the writ of habeas corpus and place the Territory of Hawaii under [34] martial law as aforesaid; that the Honorable Joseph B. Poindexter, Governor of the Territory of Hawaii, transmitted to the Honorable Franklin D. Roosevelt, the President of the United States, a communication, a copy of which is attached hereto as Exhibit "B1" and incorporated in this answer by reference thereto as though fully set forth herein, stating that the privilege of the writ of habeas corpus had been suspended and that the Territory of Hawaii had been placed under martial law as aforesaid; thereafter on December 9, 1941 the President made known his decision thereon by a reply to the Governor, a copy of which is attached hereto as Exhibit "B2" and incorporated herein by reference as though fully set forth herein, stating that the President approved the said action of the Honorable Joseph B. Poindexter, as the Governor of the Territory of Hawaii, in so suspending the privilege of the writ of habeas corpus and so placing the Territory of Hawaii under martial law, in accordance with the said Organic Act; that the President of the United States since so approving the said action of the said Honorable Joseph B. Poindexter in so suspending the privilege of the writ of habeas corpus in the Territory of Hawaii and so placing the Territory of Hawaii under martial law has never revoked the aforesaid proclamation nor said action of the said Joseph B. Poindexter so approved by the said President of the United

States, nor revoked, rescinded, or terminated his approval thereof, nor terminated the state of martial law in the Territory of Hawaii, nor restored the privilege of the writ of habeas corpus in said Territory of Hawaii. [35]

8.

That the said Walter C. Short, Lieutenant General, United States Army, having relinquished command of the Hawaiian Department on December 17, 1941, thereafter on said December 17, 1941, pursuant to the proclamation, a copy of which is attached hereto as Exhibit "C" and incorporated into this answer by reference thereto as though fully set forth herein, relinquished his position of Military Governor of the Territory of Hawaii; that Delos C. Emmons, Lieutenant General, United States Army, at the time that the said Walter C. Short, Lieutenant General, United States Army relinquished his command of the Hawaiian Department on December 17, 1941, as aforesaid, thereafter on said December 17, 1941, duly assumed the command of the Hawaiian Department and, thereafter on the same day after the said Walter C. Short, Lieutenant General, United States Army, had relinquished his position of Military Governor of the Territory of Hawaii as aforesaid, pursuant to his proclamation dated December 17, 1941, a copy of which proclamation is attached hereto as Exhibit "D" and incorporated into this answer by reference thereto as though fully set forth herein, assumed the position of Military Governor of the Territory

of Hawaii; that thereafter on June 1, 1943, the aforesaid Delos C. Emmons, Lieutenant General, United States Army, relinquished command of the Hawaiian Department and thereafter on said June 1, 1943, pursuant to his proclamation, a copy of which is attached hereto as Exhibit "E" and incorporated into this answer by reference thereto as though fully set forth herein, relinquished his position as Military Governor of the Territory of Hawaii; that Robert C. Richardson, Jr., Lieutenant General, United States [36] Army, on June 1, 1943, at the time that the said Delos C. Emmons, Lieutenant General, United States Army, relinquished command of the Hawaiian Department as aforesaid, duly assumed the command of the said Hawaiian Department and thereafter on said June 1, 1943, after the said Delos C. Emmons, Lieutenant General, United States Army, had relinquished his position as Military Governor of the Territory of Hawaii as aforesaid, pursuant to his proclamation dated June 1, 1943, a copy of which is attached to this answer as Exhibit "F" and incorporated into this answer by reference thereto as though fully set forth herein, assumed the position of the Military Governor of the Territory of Hawaii and duly adopted and ratified the then existing orders issued by the said Delos C. Emmons, Lieutenant General, United States Army, as Military Governor as aforesaid; that Robert C. Richardson, Jr., Lieutenant General, United States Army, now is, and has been, the duly qualified and acting Military Governor of the Territory of Hawaii, since assuming said po-

Interior sent to the President of the United States that certain letter, a copy of which is attached to this answer as Exhibit "H", and incorporated into this answer by reference thereto as though fully set forth herein; that said letter signed by the Secretary of War, the Attorney General of the United States, and the Secretary of the Interior, and approved by Warner W. Gardner, Solicitor of the Interior, Ingram M. Stainback, Governor of the Territory of Hawaii, Abe Fortas, Undersecretary of the Department of the Interior, Delos C. Emmons, Lieutenant General, the Commanding General, Hawaiian Department, and John J. McCloy, Assistant Secretary of War; that the respondent is informed and believes and thereupon alleges that on February 1, 1943, the President of the United States, in reply to the aforesaid letter to him, wrote the Secretary of War the letter, a copy of which is attached to this answer as Exhibit "I", and incorporated into this answer by reference thereto as though fully set forth herein. [39]

10.

That on said February 8, 1943, immediately after the Honorable Ingram M. Stainback had issued his proclamation to the people of Hawaii as aforesaid, that Delos C. Emmons, Lieutenant General, United States Army, as The Commanding General, Hawaiian Department, and as the Military Governor of the Territory of Hawaii, duly issued the proclamation, a copy of which is attached hereto as Exhibit "J" and incorporated into this answer by reference thereto as though fully set forth herein.

11.

That the respondent is informed and believes and thereupon alleges that on February 8, 1943, at the time that the aforesaid proclamations were issued on February 8, 1943, as aforesaid, the said Honorable Ingram M. Stainback, Governor of the Territory of Hawaii, publicly made to the people and the press of the Territory of Hawaii the statements hereto attached as Exhibit "K" and incorporated into this answer by reference thereto as though fully set forth herein.

12.

That thereafter on March 10, 1943, the said Delos C. Emmons, Lieutenant General, United States Army, as The Commanding General, Hawaiian Department, and as the Military Governor of the Territory of Hawaii, duly reappointed Thomas H. Green, Brigadier General, United States Army, as Executive to the Military Governor, pursuant to Paragraph 1.01, General Orders No. 1, Office of the [40] Military Governor, 10 March 1943, and that the said Thomas H. Green, Brigadier General, United States Army, was the duly appointed, qualified, and acting Executive to the Military Governor of the Territory of Hawaii from the time that he was reappointed as such Executive on March 10, 1943, to April 6, 1943, both dates inclusive; that the respondent is informed and believes and thereupon alleges that the aforesaid Thomas H. Green, Brigadier General, United States Army, as such Executive to the Military Governor of the Territory of

Hawaii, duly was authorized and empowered by the Military Governor of the Territory of Hawaii to issue General Orders for and on behalf of and by order of the Military Governor of the Territory of Hawaii; that thereafter on April 6, 1943, the said Delos C. Emmons, Lieutenant General, United States Army, The Commanding General, Hawaiian Department, and the Military Governor of the Territory of Hawaii, duly appointed William R. C. Morrison, Colonel, J.A.G.D., as Executive to the Military Governor, which respondent is informed and believes and thereupon alleges was pursuant to Paragraph 1.01, Title 1, General Orders No. 1, Office of the Military Governor, 10 March 1943, as amended by Paragraph 1.01, Title 1, General Orders No. 17, Office of the Military Governor, 6 April 1943, vice Thomas H. Green, Brigadier General, United States Army, relieved as said Executive on said 6 April 1943 by said Paragraph 1.01, Title 1, of said General Orders No. 17, and that the said William R. C. Morrison, Colonel, J.A.G.D., now is and at all times since his appointment as Executive as aforesaid on 6 April 1943, has been the duly appointed, qualified, and acting Executive to the Military Governor of the Territory of Hawaii; that the respondent is informed and believes and thereupon alleges that the aforesaid William R. C. Morrison, [41] Colonel, J.A.G.D., as such Executive to the Military Governor of the Territory of Hawaii, duly was authorized and empowered by the Military Governor of the Territory of Hawaii to issue Gen-

eral Orders for and on behalf of and by order of the Military Governor of the Territory of Hawaii.

13.

That on March 10, 1943, the said Delos C. Emmons, Lieutenant General, United States Army, as The Commanding General, Hawaiian Department, and as the Military Governor of the Territory of Hawaii, supplementing the aforesaid proclamations of the Governor and of the Commanding General and Military Governor of February 8, 1943, proclaimed that a state of martial law remains in effect within the Territory of Hawaii and that the privilege of the writ of habeas corpus has been and remains suspended; by issuing and publishing Paragraph 1.01, General Orders No. 2, Office of the Military Governor, 10 March 1943, which proclamation and paragraph was as follows:

> "1.01. A state of martial law remains in effect and the privilege of the writ of habeas corpus has been, and remains, suspended."

14.

That the respondent is informed by the military and naval authorities of the United States as appears from the affidavit of C. W. Nimitz, Admiral, U. S. Navy, Commander in Chief, U. S. Pacific Fleet and Pacific Ocean Areas, sworn to on March 22, 1944, and from the affidavit of Robert C. Richardson, Jr., Lieutenant General, United States Army, Commanding General, United States Army Forces, Central Pacific Area, sworn to on March 24, 1944, attached [42] to this answer as Exhibits

"L" and "M" respectively, and incorporated herein by reference as if set forth herein, and believes and therefore alleges that, as alleged in paragraph II 5 above, the Territory of Hawaii now is in imminent danger of invasion by the armed forces, and other agents and agencies of the Empire of Japan, and has been in such imminent danger of invasion by said armed forces and other agents and agencies at all times since the invasion of said Territory of Hawaii by the armed forces of Japan on December 7, 1941; that the public safety of the Territory of Hawaii now requires, and has at all times since the attack and invasion of the Territory of Hawaii by the said armed forces of the Empire of Japan on December 7, 1941, required, that the privilege of the writ of habeas corpus be suspended within the Territory of Hawaii, and that the Territory of Hawaii be placed and remain under martial law; that the privilege of the writ of habeas corpus now duly is suspended within the Territory of Hawaii, and duly has been suspended at all times since being suspended as alleged above, on December 7, 1941; that the Territory of Hawaii now duly is placed under martial law and has duly remained under martial law at all times since the said Territory of Hawaii was placed under martial law by the Honorable Joseph B. Poindexter, Governor of the Territory of Hawaii, on December 7, 1941.

15.

That respondent is informed by the military and naval authorities of the United States and believes

and therefore alleges that at the present time the total civilian population of the Territory of Hawaii is approximately [43] 458,000 and that of the aforesaid 458,000 people there are living, residing, and situated within the Territory of Hawaii approximately 35,183 Japanese who are enemy aliens, being citizens of Japan, and approximately 124,351 American citizens of Japanese ancestry of whom 67,675 are dual citizens of the United States and of the Empire of Japan, being born in the United States and Nationals of the Empire of Japan; that certain of the said Japanese enemy aliens, citizens of the United States of Japanese ancestry and dual citizens of the United States and Empire of Japan, are known by the Intelligence agencies of the United States within the Territory of Hawaii to be loyal to the Empire of Japan and disloyal to the United States; that a number of citizens of the United States of Japanese ancestry are now, and on March 2, 1944, were interned within the Territory of Hawaii by Lieutenant General Robert C. Richardson, Jr., The Commanding General, United States Army Forces, Central Pacific Area, for the reason that said persons are deemed by the said Commanding General to be dangerous to the public peace, safety, and security of the United States; and that the internment within the Territory of Hawaii of certain of said citizens of the United States is necessary for the prosecution of the war in the theater of war of which the Territory of Hawaii is a part.

16.

That the respondent is informed and believes and thereupon alleges that between December 7, 1941, and January 30, 1943, both dates inclusive, The Commanding General, Hawaiian Department, [44] in his capacity as Military Governor of the Territory of Hawaii, and as the Military Commander of the military forces of the United States in this actual theater of war of which the Territory of Hawaii constitutes a part, issued for the government of all persons within the Territory of Hawaii General Orders Nos. 1 to 181, inclusive, Office of the Military Governor, which were published and are publicly and judicially known; that the issuance of the aforesaid General Orders and each thereof was necessary and proper in the prosecution of the war in said theater of war and within that part of the said theater of war constituted of the Territory of Hawaii; that the Territory of Hawaii now is and at all times in this answer mentioned and stated was within the theater of war of the war between the United States and the Empire of Japan and a part of the aforesaid theater of war within the command of the aforesaid Commanding General.

17.

That the respondent is informed and believes and thereupon alleges that between March 10, 1943, and March 2, 1944, both dates inclusive, the Commanding General, Hawaiian Department, now officially designated by the War Department, Washington, D. C., and known, and so designated and known

since August 14, 1943, as The Commanding General, United States Army Forces, Central Pacific Area, within whose command is located and situated the Territory of Hawaii, as the Military Commander of the military forces of the United States in the actual theater of war constituted in part of the Territory of Hawaii, issued for the government of all persons within the Territory of Hawaii, General Orders Nos. 1 to 14, inclusive, Office of the Military Governor, [45] March 10, 1943, and amendments and rescissions thereof, copies of which are attached to this answer as Exhibit "N", and incorporated into this answer by reference thereto as though fully set forth herein; that the issuance of the said General Orders, Nos. 1 to 14, inclusive, and the said amendments and rescissions thereof, and each thereof was necessary and proper for the successful prosecution of the war in said theater of war and within that part of said theater of war constituted of the Territory of Hawaii.

18.

That the respondent is informed and believes and thereupon alleges that the appointment of the Provost Courts by the various General Orders of the Military Governor providing for the appointment of Provost Courts contained in Exhibit "N" hereto attached, and investing the Provost Courts with the power and authority set forth in the aforesaid General Orders, is and was necessary and proper for the trial and punishment of those persons who violated the aforesaid General Orders of the Mili-

tary Governor of the Territory of Hawaii and necessary for the maintenance of law, order, and security, and protection of military and naval installations, equipment, and supplies, required for the successful prosecution of the war against the Empire of Japan by the United States; that the acts of The Commanding General, Hawaiian Department, and his successor in office, The Commanding General, United States Army Forces, Central Pacific Area, in so appointing such Provost Courts and investing them with the powers and authority granted to said Provost Courts by said General Orders and by Special Orders of the Military Governor, was necessary and proper for the successful prosecution of the war within this theater of war of which the Territory of Hawaii constitutes a part. [46]

19.

That the respondent is informed and believes and thereupon alleges that the said Commanding Generals have invested each said Provost Court appointed as aforesaid with full power and authority to provide for the confinement in Oahu Prison, or in any city and county jail, or in any county jail, within the Territory of Hawaii, of any person sentenced by such Provost Court to confinement, with or without hard labor, and have authorized, empowered, and directed each such Provost Court in the name or on behalf of the Military Governor of the Territory of Hawaii, to order the Warden of Oahu Prison, or any jailer or other person having custody or control of any jail or other place of im-

prisonment within the Territory of Hawaii to accept and receive from such Provost Court any person sentenced to confinement in the place of imprisonment designated by such Provost Court, and to retain such person in his custody and such place of imprisonment until the sentence of confinement imposed upon such person by said Provost Court has been satisfied; that the said Commanding Generals have directly and expressly ordered the said Warden of Oahu Prison, the various jailors mentioned, and the other persons having control and custody of other places of imprisonment within the Territory of Hawaii, to comply with any such sentence or order of such a Provost Court and to accept and retain in the place of confinement within the control of such Warden, jailor, or other person aforesaid, the custody of any person so [47] ordered confined or committed by such Provost Court to the custody of such Warden, such jailor, or such other person, for the purpose of satisfying such a sentence; that the aforesaid orders of the said Commanding Generals to the Warden of Oahu Prison, the jailors mentioned, and the other persons having control and custody of places of confinement or imprisonment in the Territory of Hawaii, were necessary and proper for the successful prosecution of the war in this theater of war of which the Territory of Hawaii constitutes a part.

20.

That the respondent is informed and believes and thereupon alleges that Arthur L. Mundo, Lieuten-

ant Commander, United States Navy, (Ret.) duly was appointed a Provost Court at the United States Navy Yard, Pearl Harbor, Island of Oahu, Territory of Hawaii, on October 27, 1943, pursuant to Paragraph 5.01, Title 5, General Orders No. 2, Office of the Military Governor, 10 March 1943, as amended by Paragraph 1.01, Title 1, General Orders No. 39, Office of the Military Governor, 27 October 1943, copies of which are set forth in Exhibit "N" hereto attached; that the said Arthur L. Mundo, Lieutenant Commander, United States Navy, (Ret.), now is, and at all times since being so appointed as such a Provost Court, has been a duly appointed, qualified, and acting Provost Court at the United States Navy Yard, Pearl Harbor, Oahu, Territory of Hawaii. [48]

21.

That Paragraph 8.01, Title 8, General Orders No. 2, Office of the Military Governor, 10 March 1943, a copy of which said Paragraph 8.01 is included in Exhibit "N" hereto attached, provides that

> "8.01. No person shall commit an assault or an assault and battery on any military police, any member of the shore patrol, or other military or naval personnel, with intent to resist, prevent, hinder, or obstruct him in the discharge, execution, or performance of his duty as such, nor shall any person wilfully interfere or attempt to interfere with any military police, any member of the shore patrol, or other military or

naval personnel in the performance of his official, defined, or required duties as such."

22.

That the United States Navy Yard, Pearl Harbor, Island of Oahu, Territory of Hawaii, is a major naval base in the Central Pacific Area of the Pacific Ocean of the United States and of the nations allied with it in the prosecution of the war against the Empire of Japan; that many warships of the United States from time to time are docked, maintained, or repaired at the said Navy Yard; that it is a requirement that no person enter the said Navy Yard unless authorized to so enter by The Commandant of said [49] Navy Yard and that the identity and authority of each person entering or attempting to enter the Navy Yard be fully established at the gates to the Navy Yard before such person is allowed to enter the yard, and that those authorized to enter or leave the Navy Yard be permitted to do so as expeditiously as possible; that at the present time and for many months immediately last past, a daily average of over 11,000 motor vehicles, a daily average of over 63,000 pedestrians and motor vehicle passengers, composed of civilians and members of the armed forces, and three trains containing a daily average of over 15,000 passengers, have entered the said Navy Yard every twenty-four hours; that the main flow of pedestrian and vehicular traffic enters the said Navy Yard through three gates only; that approximately two-thirds of the civilians entering Pearl Harbor enter during

the day shift which begins at 7:00 A.M.-7:30 A.M.; that approximately one-third of the civilians enter during the other two shifts commencing at 3:00 P.M.-3:30 P.M. and 11:00 P.M.-11:30 P.M.; that great quantities of munitions and supplies used in the defense of the Territory of Hawaii and in the prosecution of the war in this theater of war are stored within the boundaries of said Navy Yard; that vital and highly confidential equipment is continuously within said Navy Yard.

23.

That the respondent is informed and believes and thereupon alleges that thereafter on February 29, 1944, charges, of which a copy is attached hereto as Exhibit "C" and incor- [50] porated into this answer by reference thereto as though fully set forth herein, duly signed and sworn to, and charging the petitioner with a violation of Paragraph 8.01, Title 8, General Orders No. 2, Office of the Military Governor, 10 March 1943, duly were filed with the said Arthur L. Mundo, Lieutenant Commander, U. S. Navy (Ret.), as the Provost Court at the United States Navy Yard, Pearl Harbor, T. H.; that thereupon a Penal Summons, a copy of which is attached hereto as Exhibit "P" and incorporated into this answer by reference thereto as though fully set forth herein, was served upon the petitioner requiring him to appear before the said Provost Court on March 1, 1944, to answer the said charge; that thereafter the said Lloyd C. Duncan duly came before said Court for hearing and trial

upon said charges; that the said Lloyd C. Duncan was fully informed of his right to be represented by counsel at said trial, but waived representation by counsel, and thereupon was duly tried and convicted and a copy of the transcript of the record of the trial is attached hereto as Exhibit "Q" incorporated into this answer by reference thereto as though fully set forth herein; that thereafter said Lloyd C. Duncan was sentenced upon said charge by said Provost Court to be imprisoned in the jail of the City and County of Honolulu, Territory of Hawaii, of which your respondent is in official control; that a copy of the mittimus or commitment issued by said Provost Court pursuant to which the said Lloyd C. Duncan was placed in the custody of your respondent is attached hereto as Exhibit "R" and incorporated int this answer by reference thereto as though fully set forth herein; that your respondent now holds the petitioner in his custody pursuant to the various afore-mentioned orders of Robert C. Richardson, Jr., [51] Lieutenant General, The Commanding General, United States Army Forces, Central Pacific Area, issued by said Commanding General as Military Governor of the Territory of Hawaii and as the Military Commander of the Military Forces of the United States in this theater of war.

24.

That the United States District Court for the Territory of Hawaii is without jurisdiction to order your respondent, Duke Paoa Kahanamoku, to produce the body of the petitioner before your honor

in response to a writ of habeas corpus or to issue any order herein releasing or otherwise discharging the petitioner from the custody of your respondent, for the reasons that a state of martial law now exists, and at all times herein mentioned and stated has existed, within the Territory of Hawaii and the privilege of the writ of habeas corpus now remains suspended, and at all times herein mentioned and stated, has been suspended; and for the further reasons that military necessary requires the existence and operation of the said provost courts and in particular requires the trial and punishment by such courts of persons assaulting military police, military sentries and other military personnel in the performance of their duties; and finally for the reasons that the said provost courts were established for such purposes by the said Commanding General and Military Governor in good faith and in the honest belief that in their military judgment military necessity requires such action and for the reason that such military action is not unreasonable or arbitrary. [52]

Wherefore, your respondent respectfully submits that the petition herein should be denied and dismissed.

Dated at Honolulu, T. H., this 29th day of March, 1944.

/s/ DUKE PAOA KAHANAMOKU
Sheriff, City and County of Honolulu, Territory of Hawaii, Respondent

/s/ G. D. CROZIER
United States Attorney, District of Hawaii

/s/ EDWARD J. ENNIS
Special Assistant to the Attorney General

/s/ EDWARD TOWSE
Assistant United States Attorney, District of Hawaii
Attorneys for Respondent

/s/ WILLIAM J. HUGHES, JR.
Lieut. Colonel, J.A.G.D.

/s/ EUGENE V. SLATTERY
Lieut. Colonel, J.A.G.D.
Of Counsel [53]

Territory of Hawaii
City and County of Honolulu—ss.

Duke Paoa Kahanamoku, being duly sworn on oath deposes and says:

That he is the Sheriff for the City and County of Honolulu and as such, the jailer of, the City and County Jail, City and County of Honolulu, Territory of Hawaii, and in that capacity made and signed the foregoing return and answer to Petition and return to Order to Show Cause; that he has

read the same, knows the contents thereof, and that all allegations of fact therein are true excepting such as are made upon information and belief and as to those, he believes them to be true to the best of his information, knowledge and belief, and the source of his information and knowledge is the military and naval authorities of the United States.

/s/ DUKE PAOA KAHANAMOKU
Sheriff, City and County of Honolulu, Territory of Hawaii, Respondent

Subscribed and sworn to before me this 29th day of March, 1944.

[Seal] /s/ WM. F. THOMPSON, JR.
Clerk United States District Court for the District of Hawaii [54]

EXHIBIT A

Territory of Hawaii
A Proclamation

Whereas, it is provided by Section 67 of the Organic Act of the Territory of Hawaii, approved April 30, 1900, that, whenever it becomes necessary, the Governor of that territory may call upon the commander of the military forces of the United States in that territory to prevent invasion; and

Whereas, it is further provided by the said section that the governor may in case of invasion or imminent danger thereof, when the public safety requires it, suspend the privilege of the writ of

habeas corpus and place the territory under martial law; and

Whereas, the armed forces of the Empire of Japan have this day attacked and invaded the shores of the Hawaiian Islands; and

Whereas, it has become necessary to repel such attack and invasion; and

Whereas, the public safety requires;

Now, Therefore, I, J. B. Poindexter, Governor of the Territory of Hawaii, do hereby announce that, pursuant to said section, I have called upon the Commanding General, Hawaiian Department, to prevent such invasion;

And, pursuant to the same section, I do hereby suspend the privilege of the writ of habeas corpus until further notice;

And, pursuant to the same section, I do hereby place the said territory under martial law;

And, I do hereby authorize and request the Commanding General, Hawaiian Department, during the present [55] emergency and until the danger of invasion is removed, to exercise all the powers normally exercised by me as Governor;

And I do further authorize and request the said Commanding General, Hawaiian Department, and those subordinate military personnel to whom he may delegate such authority, during the present emergency and until the danger of invasion is removed, to exercise the powers normally exercised by judicial officers and employees of this territory and of the counties and cities therein, and such other and further powers as the emergency may require;

And I do require all good citizens of the United States and all other persons within the Territory of Hawaii to obey promptly and fully, in letter and in spirit, such proclamations, rules, regulations and orders, as the Commanding General, Hawaiian Department, or his subordinates, may issue during the present emergency.

In Witness Whereof, I have hereunto set my hand and caused the seal of the Territory of Hawaii to be affixed.

Done at Honolulu, Territory of Hawaii, this 7th day of December, 1941.

[Seal] (s) J. B. POINDEXTER
Governor of the Territory of Hawaii.

By the Governor:
CHAS M. HITE
Secretary of Hawaii.

3:30 P.M.

A true and correct copy:
/s/ JAMES F. HANLEY
Major, J.A.G.D.

EXHIBIT B

Proclamation
United States Army
Headquarters Hawaiian Department
Fort Shafter, 7 December 1941

To the People of Hawaii:

The military and naval forces of the Empire of Japan have attacked and attempted to invade these islands.

Pursuant to section 67 of the Organic Act of the Territory of Hawaii, approved April 30, 1900, the Governor of Hawaii has called upon me, as commander of the military forces of the United States in Hawaii, to prevent such invasion; has suspended the privilege of the writ of habeas corpus; has placed the Territory under martial law; has authorized and requested me and my subordinates to exercise the powers normally exercised by the governor and by subordinate civil officers; and has required all persons within the Territory to obey such proclamations, orders, and regulations as I may issue during the present emergency.

I announce to the people of Hawaii, that, in compliance with the above requests of the Governor of Hawaii, I have this day assumed the position of military governor of Hawaii, and have taken charge of the government of the Territory, of the preservation of order therein, and of putting these islands in a proper state of defense.

All persons within the Territory of Hawaii, whether residents thereof or not whether citizens of the United States or not, of no matter what race or nationality, are warned that by reason of their presence here they owe during their stay at least a temporary duty of obedience to the United States, and that they are bound to refrain from giving, by word or deed, and aid or comfort to the enemies of the United States. Any violation of this duty is treason, and will be punished by the severest penalties.

The troops under my command, in putting down any disorder or rebellion and in preventing any aid to the invader, will act with such firmness and vigor and will use such arms as the accomplishment of their task may require.

The imminence of attack by the enemy and the possibility of invasion make necessary a stricter control of your actions than would be necessary or proper at other times. I shall therefore shortly publish ordinances governing the conduct of the people of the Territory with respect to the showing of lights, circulation, meetings, censorship, possession of arms, ammunition, and explosives, the sale of intoxicating liquors and other subjects.

In order to assist in repelling the threatened invasion of our island home, good citizens will cheerfully obey this proclamation and the ordinances to be published; others will be required to do so. Offenders [56] will be severely punished by military tribunals or will be held in custody until such time as the civil courts are able to function.

Pending further instructions from this headquarters the Hawaii Defense Act and the Proclamations of the Governor of Hawaii heretofore issued thereunder shall continue in full force and effect.

(signed) WALTER C. SHORT,
Lieutenant General, U. S. Army, Commanding.
Military Governor of Hawaii.

A True Copy:

JAMES F. HANLEY,
Major, J.A.G.D.

EXHIBIT B-1

S. C. Form No. 11

Signal Corps, United States Army

Received at War Department Message Center,
Room 3441, Munitions Building,
Washington, D. C.

P49WTJ PX 42WD Priority

FtShafter 516P Dec 7 1941

The President the White House
Washington D C

I Have Today Declared Martial Law Throughout the Territory of Hawaii and Have Suspended the Privilege of the Writ of Habeas Corpus Period Your Attention Is Called to Section Sixty Seven of the Hawaiian Organic Act for Your Decision on My Action

POINDEXTER
1106PM Dec 7th 1941 [57]

EXHIBIT B-2

Standard Form No. 14A
Approved By the President
March 10, 1926

From The White House
Washington
December 9, 1941

Telegram
Official Business—Government Rates
48 U S Govt Cable

Honorable Joseph B. Poindexter,
Governor, Territory of Hawaii,
Honolulu, Hawaii.

Your Telegram of December Seventh Received

and Your Action in Suspending the Writ of Habeas Corpus and Placing the Territory of Hawaii Under Martial Law in Accordance with U.S.C., Title 48, Section 532 Has My Approval.

FRANKLIN D. ROOSEVELT

[58]

EXHIBIT C

Proclamation
United States Army

To the people of the Territory of Hawaii:

Whereas, the Governor of the Territory of Hawaii, J. B. Poindexter, by a proclamation dated December 7, 1941, and made pursuant to the authority of Section 67 of the Organic Act of the Territory of Hawaii, approved April 30, 1900, called upon me, as commander of the military forces of the United States in this Territory, to prevent invasion; suspended the writ of habeas corpus; placed the Territory under martial law; authorized and requested me and my subordinates to exercise the powers normally exercised by the Governor and by subordinate civil officers; and required all persons within the said Territory to obey such proclamations, orders, and regulations as I, or my subordinates, might issue during the present emergency;

Whereas, I by proclamation dated December 7, 1941, announced to the people of the Territory of Hawaii that, in compliance with the above recited requests of the Governor of the Territory of Hawaii, I had that day assumed the position of Military Governor of the Territory of Hawaii and had taken

charge of the government of the Territory, of the preservation of order therein, and of putting these islands in a proper state of defense;

And Whereas, I have this day relinquished command of the Hawaiian Department in accordance with War Department radiogram dated 17 December 1941; [59]

Now, Therefore, I, Walter C. Short, do hereby relinquish my position as Military Governor of the Territory of Hawaii.

Done at Headquarters Hawaiian Department, Fort Shafter, Territory of Hawaii, this 17th day of December, 1941.

(signed) WALTER C. SHORT,
Lieutenant General, U. S.
Army, Commanding,
Military Governor of Hawaii.

A True Copy:
JAMES F. HANLEY (signed)
Major, J.A.G.D.

EXHIBIT D

Proclamation
United States Army

To the people of the Territory of Hawaii:

Whereas, the Governor of the Territory of Hawaii, J. B. Poindexter, by a proclamation dated December 7, 1941, and made pursuant to the authority of Section 67 of the Organic Act of the Territory of Hawaii, approved April 30, 1900, called

upon the Commanding General, Hawaiian Department, as commander of the military forces of the United States in this Territory, to prevent invasion; suspended the writ of habeas corpus; placed the Territory under martial law; authorized and requested the Commanding General, Hawaiian Department, and his subordinates, to exercise the powers normally exercised by the Governor and by subordinate civil officers; and required all persons within the said Territory to obey such proclamations, orders, and regulations as the Commanding General, Hawaiian Department, or his subordinates, mich issue during the present emergency;

Whereas, Lieutenant General Walter C. Short, U. S. Army, Commanding the Hawaiian Department, by proclamation dated December 7, 1941, announced to the people of the Territory of Hawaii that, in compliance with the above recited requests of the Governor of the Territory of Hawaii, he had that day assumed the position of Military Governor of the Territory of Hawaii and had taken charge of the government of the Territory, of the preservation of order therein, and of putting these islands in a proper state of defense; [60]

Whereas, Lieutenant General Walter C. Short, U. S. Army, Commanding the Hawaiian Department, has this day relinquished command of the Hawaiian Department in accordance with War Department readiogram dated December 17, 1941;

Whereas, Lieutenant General Walter C. Short, U. S. Army, Commanding the Hawaiian Depart-

ment, has this day relinquished his position as Military Governor of the Territory of Hawaii;

And Whereas, I have this date assumed command of the Hawaiian Department in accordance with War Department radiogram dated December 17, 1941;

Now, Therefore, I, Delos C. Emmons, announce to the people of the Territory of Hawaii that I have this day assumed the position of the Military Governor of the Territory of Hawaii, and as such Military Governor I adopt and confirm the instructions contained in the fifth to ninth paragraphs, inclusive, of the proclamation of the Military Governor of the Territory of Hawaii dated December 7, 1941, and the general orders and other actions taken pursuant thereto.

Done at Headquarters Hawaiian Department, Fort Shafter, Territory of Hawaii, this 17th day of December, 1941.

(signed) DELOS C. EMMONS,
Lieutenant General, U. S.
Army, Commanding,
Military Governor of Hawaii.

A True Copy:
/s/ JAMES F. HANLEY
Major, J.A.G.D.

EXHIBIT E

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.

1 June 1943

PROCLAMATION

To the People of the Territory of Hawaii:

Whereas the Governor of the Territory of Hawaii by his proclamation of December 7, 1941, placed the Territory of Hawaii under martial law in the exercise of his powers under Section 67 of the Organic Act of the Territory of Hawaii and called upon Walter C. Short, Lieutenant General, United States Army, The Commanding General, Hawaiian Department, as commander of the military forces of the United States in said Territory of Hawaii, to prevent invasion thereof; and whereas on said date the said Walter C. Short, Lieutenant General, United States Army, The Commanding General, Hawaiian Department, assumed the position of Military Governor of the Territory of Hawaii; and,

Whereas the said Walter C. Short, Lieutenant General, United States Army, on December 17, 1941, relinquished command of the Hawaiian Department and his position as Military Governor of the Territory of Hawaii; and,

Whereas I, Delos C. Emmons, Lieutenant General, United States Army, thereafter on said December 17, 1941, assumed command of the Hawaiian Department in accordance with War Department

orders and thereafter on said date assumed the position of Military Governor of the Territory of Hawaii; and,

Whereas I have this day relinquished command of the Hawaiian Department in accordance with War Department orders;

Now, Therefore, I, Delos C. Emmons, Lieutenant General, United States Army, hereby do relinquish my position as Military Governor of the Territory of Hawaii.

/s/ DELOS C. EMMONS
Lieutenant General, United States Army
Military Governor of the Territory of Hawaii

A True Copy:

WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive [61]

EXHIBIT F

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.

1 June 1943

PROCLAMATION

To the People of the Territory of Hawaii:

Whereas the Governor of the Territory of Hawaii by his proclamation of December 7, 1941, placed the Territory of Hawaii under martial law

the exercise of his powers under Section 67 of the Organic Act of the Territory of Hawaii and called upon Walter C. Short, Lieutenant General, United States Army, The Commanding General, Hawaiian Department, as commander of the military forces of the United States in said Territory of Hawaii, to prevent invasion thereof; and whereas on said date the said Walter C. Short, Lieutenant General, United States Army, The Commanding General, Hawaiian Department, assumed the position of Military Governor of the Territory of Hawaii; and,

Whereas the said Walter C. Short, Lieutenant General, United States Army, on December 17, 1941, relinquished command of the Hawaiian Department and his position as Military Governor of the Territory of Hawaii; and,

Whereas, Delos C. Emmons, Lieutenant General, United States Army, thereafter on said December 17, 1941, assumed command of the Hawaiian Department in accordance with War Department orders and thereafter on said date assumed the position of Military Governor of the Territory of Hawaii; and,

Whereas the said Delos C. Emmons, Lieutenant General, United States Army, on this June 1, 1943, has relinquished command of the Hawaiian Department in accordance with War Department orders and has relinquished his position as Military Governor of the Territory of Hawaii; and,

Whereas, I, Robert C. Richardson, jr., Lieutenant General, United States Army, have on this date as-

sumed command of the Hawaiian Department in accordance with War Department orders; and,

Whereas a state of martial law remains in effect within the Territory of Hawaii and the privilege of the writ of habeas corpus remains suspended therein; [62]

Now, Therefore, I, Robert C. Richardson, jr., Lieutenant General, United States Army, and The Commanding General, Hawaiian Department, by virtue of the premises aforesaid, on this day hereby assume the position of Military Governor of the Territory of Hawaii, and, as such Military Governor of the Territory of Hawaii, I hereby assume all the powers and duties held, possessed, assumed, imposed upon, and exercised by the said Delos C. Emmons, Lieutenant General, United States Army, as Military Governor of the Territory of Hawaii, at the time that he, as aforesaid, relinquished the command of the Hawaiian Department and the said position of Military Governor of the Territory of Hawaii; and I, as Military Governor of the Territory of Hawaii, hereby adopt and ratify the existing orders issued by the said Delos C. Emmons, Lieutenant General, United States Army, as Military Governor as aforesaid.

/s/ ROBERT C. RICHARDSON, JR.
Lieutenant General, United States Army, Commanding General, Hawaiian Department, Military Governor of the Territory of Hawaii.

A True Copy:

WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

EXHIBIT G

By the Governor of Hawaii

A PROCLAMATION

Whereas, the Governor of Hawaii by his proclamation of December 7, 1941, placed the Territory of Hawaii under martial law, in exercise of his powers under section 67 of the Organic Act, which action was confirmed by the President of the United States on December 8, 1941; and

Whereas, a state of martial law remains in effect and the privilege of the writ of habeas corpus remains suspended;

Now, Therefore, I, Ingram M. Stainback, Governor of Hawaii, under the authority given by section 67 of the Organic Act, do hereby proclaim:

1. The Governor of Hawaii and the other civilian officers and agencies of the federal, the territorial and the local governments, will resume on the thirtieth day hereafter their respective jurisdictions, functions and powers, according to law, with respect to the following matters, and others necessarily related thereto:

(a) Control of prices

(b) Rationing of commodities among the civilian population

(c) Control of hospitals, medical personnel, and medical supplies

(d) Food production by and distribution of food among the civilian population

(e) Control of rents

(f) Control of transportation and traffic by land, except the movement of troops, military supplies and equipment, and except that the Commanding General may prescribe rules for the traffic during blackout hours

(g) Public health, sanitation, and prevention of disease among civilians

(h) Licensing of businesses, regulation of hours of business, and types of forbidden occupations

(i) Judicial proceedings, both criminal and civil, except: [63]

(1) Criminal prosecutions against members of the armed forces. Members of auxiliary armed forces shall be included within the term "armed forces" after induction into the service and also before induction in respect of any act or omission certified by the Commanding General to be in the line of duty.

(2) Civil suits against members of the armed forces, as defined in subparagraph (1), in respect of any act or omission certified by the Commanding General to be in the line of of duty.

(3) Criminal prosecutions for violations of military orders.

The Commanding General may waive the above exception with respect to any particular prosecution or suit, or any class of prosecutions or suits, thereby permitting such prosecutions or suits to be tried in the appropriate court of the Territory or in the United States District Court for Hawaii, as the case may be.

(j) Control of imports for civilian consumption and exports by civilians within allotments of tonnage made by the Commanding General

(k) Censorship of mail from civilians in the Territory

(l) Control of liquor and narcotics

(m) Schools and children

(n) The custody of alien property

(o) Collection and disposition of garbage, ashes, and other waste

(p) Banking, currency, and securities, provided that the Commanding General may prescribe the measures to be taken to prevent the enemy from obtaining securities or money or realizing upon them if he should obtain them

(q) Civilian defense activities, except that the Commanding General shall have jurisdiction to prescribe the duties of the Civilian Defense Corps, and to regulate and inspect their training

(r) Control of the supply, employment, hours, wages, and working conditions of labor, except as to (1) employees of the United States under the War Department or the Navy Department, (2) workers employed on construction and other projects under the War Department or the Navy Department, (3) stevedores and other workers employed on docks and dock facilities, and (4) employees of public utilities. It is contemplated that the Commanding General and the Governor of Hawaii by mutual agreement will appoint a joint advisory committee which shall from time to time

consult and advise with each of them with reference to labor matters in their respective fields. [64]

2. For the purposes of the defense of the Hawaiian Islands and for their preparation for use as a base for offensive operations, the Commanding General shall continue so far as he deems the military security of the Territory to require, to exercise full jurisdiction over all matters over which he now has jurisdiction except such as are resumed by civil authorities pursuant to paragraph 1 of this proclamation.

3. Whenever the Commanding General, in the light of an existing military emergency or in anticipation of any military emergency, considers it necessary for the security of the islands or their use as a military or naval base, he shall have power, upon a written declaration of the existence or the anticipation of a military emergency, to exercise such of the functions and jurisdictions as are hereby or may hereafter be resumed by the civil authorities, or to issue such additional military orders, after consultation with the Governor of the Territory where civilian rights and the administration of the civilian government are affected, directing such action as in the judgment of the Commanding General may be required for the military security of the Territory.

4. Nothing in this proclamation shall operate to invalidate any conviction, or any application of military orders to persons or activities, or any other action, which occurred or shall occur prior to the thirtieth day hereafter.

5. I call upon all good citizens of the United States and all other persons within the Territory of Hawaii to obey promptly and fully, in letter and spirit, such orders as the Commanding General may issue under this proclamation and during the continuance of the state of martial law.

Done, at Honolulu, Territory of Hawaii, this 8 day of Feb., 1943.

INGRAM M. STAINBACK,
Governor of Hawaii. [65]

EXHIBIT H

(Copy)

18 January 1943

Dear Mr. President:

We are pleased to report that after lengthy discussions the Departments of War, Justice, and Interior have reached an operating agreement upon the distribution of governmental functions between the civil and military authorities in the Territory of Hawaii. Pursuant to this agreement the Governor of Hawaii and the Commanding General will issue simultaneous proclamations. Their effect is to leave unchanged the state of martial law and the suspension of the writ of habeas corpus, to restore to the civil government the majority of civil functions hitherto exercised by the Military authorities, and to provide emergency powers for the Military government. Copies of the proclamations are enclosed for your information. We also enclosed a draft of a letter which we suggest you might appro-

priately send to the Secretary of War. It is designed, as you will observe, to reassure the civilian departments that there will be no unnecessary resumption of the restored functions by the Military authorities.

Sincerely yours,

SECRETARY OF WAR
ATTORNEY GENERAL
SECRETARY OF THE INTERIOR

Approved:

Warner W. Gardner
Ingram M. Stainback
Abe Fortas
D. C. Emmons
John J. McCloy
The President, White house [66]

EXHIBIT I

(Copy)

The White House
Washington

February 1, 1943

My dear Mr. Secretary:

I have examined the proposed proclamation to be issued by the Commanding General, Hawaiian Department, and the proposed proclamation to be issued concurrently by the Governor of Hawaii. I understand that the Departments of War, Justice, and Interior have agreed in this manner to resolve the difficult questions surrounding the administration of government in the Territory of Hawaii.

I wish to congratulate all the Departments concerned in their cooperative and successful efforts to reach an amicable solution of the knotty problems involved. In an area of such strategic importance as the Hawaiian Islands in a time of active war in the Pacific, I can readily appreciate the difficulty in defining exactly the boundaries between civil and military functions. I think the formula which this proclamation applies meets the present needs.

I know that General Emmons will do all that he can, consistent with his military responsibility, to refrain from exercising his authority over what are normally civil functions. I am confident that the military and civil authorities will cooperate fully. If an occasion should arise on which, after consultation with the civil authorities, the Commanding General felt it necessary to take action under the provisions of paragraph 3, I should like to be informed of the circumstances under which such action was taken. I hope also that there will be a further restoration of civil authority as and when the situation permits.

Sincerely yours,

(S) FRANKLIN D. ROOSEVELT

Hon. Henry L. Stimson,
Secretary of War. [67]

EXHIBIT J

PROCLAMATION

U. S. Army
Headquarters Hawaiian Department.
Honolulu, Feb. 8, 1943.

To the People of Hawaii:

I, Delos C. Emmons, Lieutenant General, United States Army, as Commanding General, Hawaiian Department, and as Military Governor of Hawaii, do hereby proclaim:

1. Full jurisdiction and authority are hereby relinquished by the Commanding General to the Governor and other officers of the Territory of Hawaii, to the courts of that territory, to the city and county of Honolulu, to other counties, to all other officers of the territory or other persons acting under its authority, to the United States District Court for Hawaii, and to the appropriate officers of the United States, to exercise such powers as may now or hereafter be vested in them respectively by law over the following matters and others necessarily related thereto:

(a) Control of prices

(b) Rationing of commodities among the civilian population

(c) Control of hospitals, medical personnel, and medical supplies

(d) Food production by and distribution of food among the civilian population

(e) Control of rents

(f) Control of transportation and traffic by

land, except the movement of troops, military supplies and equipment, and except that the Commanding General may prescribe rules for the traffic during blackout hours

(g) Public health, sanitation, and prevention of disease among civilians

(h) Licensing of businesses, regulation of hours of business, and types of forbidden occupations

(i) Judicial proceedings, both criminal and civil, except:

(1) Criminal prosecutions against members of the armed forces. Members of auxiliary armed forces shall be included within the term "armed forces" after induction into the service and also before induction in respect of any act or omission certified by the Commanding General to be in the line of duty.

(2) Civil suits against members of the armed forces, as defined in subparagraph (1), in respect to any act or omission certified by the Commanding General to be in the line of duty. [68]

(3) Criminal prosecutions for violations of military orders.

The Commanding General may waive the above exception with respect to any particular prosecution or suit, or any class of prosecutions or suits, thereby permitting such prosecutions or suits to be tried in the appropriate court of the territory or, in the United States District Court for Hawaii, as the case may be.

(j) Control of imports for civilian consump-

tion and exports by civilians within allotments of tonnage made by the Commanding General.

(k) Censorship of mail from civilians in the territory

(l) Control of liquor and narcotics

(m) Schools and children

(n) The custody of alien property

(o) Collection and disposition of garbage, ashes, and other waste

(p) Banking, currency, and securities, provided that the Commanding General may prescribe the measures to be taken to prevent the enemy from obtaining securities or money or realizing upon them if he should obtain them

(q) Civilian defense activities, except that the Commanding General shall have jurisdiction to prescribe the duties of the Civilian Defense Corps, and to regulate and inspect their training

(r) Control of the supply, employment, hours, wages, and working conditions of labor, except as to (1) employees of the United States under the War Department or the Navy Department, (2) workers employed on construction and other projects under the War Department or the Navy Department, (3) stevedores and other workers employed on docks and dock facilities, and (4) employees of public utilities. It is contemplated that the Commanding General and the Governor of Hawaii by mutual agreement will appoint a joint advisory committee, which shall from time to time consult and advise with each of them with reference to labor matters in their respective fields.

2. The Commanding General, Hawaiian Department, is charged with responsibility for the defense of the Hawaiian Islands and for their preparation for use as a base for offensive operations. For such purposes he shall continue, so far as he deems the military security of the territory to require, to exercise full jurisdiction over all matters over which he now has jurisdiction except such as are transferred to civil authorities pursuant to paragraph 1 of this proclamation.

3. Whenever the Commanding General, in the light of an existing military emergency or in anticipation of any military emergency, considers it necessary for the security of the islands or their use as a military or naval base, he shall have power, upon a written declaration of the existence or the anticipation of a military emergency, to resume such of the functions and jurisdictions as are hereby or may hereafter be transferred to the civil authorities, or to issue such additional military orders, after consultation [69] with the Governor of the territory where civilian rights and the administration of the civilain government are affected, directing such action as in the judgment of the Commanding General may be required for the military security of the territory.

4. Neither this proclamation nor the revocation of orders announced in paragraph 5 hereof shall operate to invalidate any conviction, or any application of military orders to persons or activities, or any other action, which occurred prior to the effective date of this proclamation or such revocation.

5. This proclamation shall take effect thirty days after its date. Those parts of all military orders affecting the subjects enumerated in paragraph 1 hereof are hereby revoked effective thirty days after the date hereof.

DELOS C. EMMONS
Lieutenant General, U. S. Army, Commanding.
Military Governor of Hawaii. [70]

EXHIBIT K

Statement by the Governor

February 8, 1943

After numerous conferences among representatives of the War, Justice, Interior Departments and myself, it was agreed that martial law should be continued in Hawaii but that existing military control should be modified to restore to a large extent civilian control of civilian matters. My proclamation is the result of this agreement.

Under the Act of Congress the Governor is "responsible for the faithful execution of the laws of the United States and of the Territory" within the Territory. On December 7, 1941, the Governor of Hawaii issued a proclamation placing the Territory under martial law, which proclamation was subsequently modified by me on September 2nd, 1942. This proclamation issued today continues martial law and the suspension of the privilege of the writ of habeas corpus but modifies those prior proc-

lamations by restoring to the civil authorities jurisdiction in their respective fields over civilian affairs except for certain specified subjects which are primarily of military concern.

I am sure that the people of the Territory, as well as the civil and military authorities, will welcome this change. We of Hawaii believe that we, equally with the people of the mainland, are capable of governing ourselves in times of peril as well as in more tranquil times. Our military leaders, as they have many times made plain, are not anxious to assume the unfamiliar tasks of civil government.

We of Hawaii know the magnificent work done by the Army and Navy in making these Islands one of our principal offensive and defensive bases. [71] Yet the job does not stop there. The civilian population itself, in an outpost such as ours, must equally with the armed forces direct its every effort towards preparing for the day that the enemy might strike again.

In this, as in all civilian affairs, we will give the fullest cooperation to the military and naval authorities who are charged with the defense of our Islands. As Governor of Hawaii I propose, within my powers, to meet every request of those authorities by which our civilian government will aid the military preparations.

Our wartime duties do not stop with preparations to repulse the enemy. In common with the rest of America we must apply drastic measures to insure a fair distribution of a limited volume of supplies and we must do more work with less manpower. In

addition, we have special problems of our own. All of these difficulties can be overcome if each of us approaches the task with a firm determination and a spirit of willing cooperation. Here again, as Governor of Hawaii I shall use the powers given me by the Congress and by our Legislature, both to insure a vigorous attack on these problems and to cooperate to the fullest with the several Federal agencies having jurisdiction in these fields.

The effect of the resumption of the statutory duties of the Governor and the civil authorities places upon us a most solemn and important obligation. No one should expect that such resumption of civil authority will insure that the Territory will be governed without fault. I have no doubt that my own mistakes will number more than a few, but so far as it lies within my power and so far as it lies within my capacities, I shall exert every effort to make secure our Island home and to give the Territory an effective and impartial government.

INGRAM M. STAINBACH
Governor of Hawaii

Executive Chambers
Iolani Palace.

EXHIBIT L

In the District Court of the United States in and for the Territory of Hawaii

Habeas Corpus No. 298

In the Matter of the Application of

LLOYD C. DUNCAN

For a Writ of Habeas Corpus.

United States of America
Territory of Hawaii
City and County of Honolulu—ss.

I, C. W. Nimitz, Admiral, U. S. Navy, Commander in Chief, U. S. Pacific Fleet and Pacific Ocean Areas being first duly sworn on oath depose and say:

That I was graduated from the United States Naval Academy in 1905 as a Passed Midshipman and have been and still am on active duty in the United States Navy; that since that time I have received periodic promotion in rank including my promotion to the rank of Admiral on December 31, 1941; that on December 18, 1941 I was appointed Commander in Chief of the Pacific Fleet and assumed command thereof 31 December 1941, and thereafter I was appointed Commander in Chief of the Pacific Ocean Areas which said commands I have held continuously since the times of my appointments.

During the course of my active duty I have been assigned duty on the battleship Ohio, the light cruiser Baltimore, the gunboat Panay and the de-

stroyer Decatur. I have commanded the submarines Plunger, C-5, D-1 and E-1, and in May 1912 became group commander of the Atlantic submarine flotilla; thereafter I was assigned duty at the Navy Yard, New York, supervising the construction of Diesel engines, two of which were installed in the tanker Maumee, in which I served in 1916 as chief engineer and executive officer; thereafter in 1917-1918 I served on the [72] staff of Commander, Submarines, in the cruiser Chicago.

That in September 1918 I was assigned duty in the office of the Chief of Naval Operations, Washington, D. C., and in May 1919 returned to sea as executive officer of the battleship South Carolina.

In July 1920 I came to the Hawaiian Area as Commander Submarine Division 14 and as Commander, Submarine Base, Pearl Harbor.

Thereafter on June 1923 I graduated from the Naval War College and joined the staff of the Commander in Chief, Battle Fleet, Admiral S. S. Robison, with whom I continued as assistant chief of staff when Admiral Robison became Commander in Chief of the United States Fleet.

In 1929 I assumed command of Submarine Division 20 and from 1931 to 1933 commanded the Destroyer Base, San Diego; thereafter from 1933 to 1935 I commanded the heavy cruiser Augusta until 1935 when I became Assistant Chief of the Bureau of Navigation; thereafter in 1938 I assumed command of Battleship Division One, and remained on said command until detached in 1939 to become Chief of the Bureau of Navigation.

Based on my experience and observations gained through my official position in the Territory of Hawaii and the Pacific Ocean Areas since December 18, 1941, I make the following statements of fact and expressions of opinion:

1. That the Territory of Hawaii now is, and at all times since the attack thereon and the invasion thereof by the armed forces of the Empire of Japan on December 7, 1941, has been, an actual theater of the war between the United States and the Empire of Japan; that active military, naval, and air operations of said war now exist and are being conducted and have existed and continued in the said Territory [73] of Hawaii since the said attack thereon and invasion thereof on December 7, 1941, as aforesaid.

2. That it is my opinion that the said Territory of Hawaii now is and at all times since the attack thereon and the invasion thereof by the armed forces of the Empire of Japan on December 7, 1941, has been, in imminent danger of invasion by the armed forces and other agents and agencies of the Empire of Japan; that it is my opinion that the public safety of the Territory of Hawaii and of the United States now requires, and at all times since the said attack on and the said invasion of the said Territory of Hawaii by the said armed forces of the Empire of Japan on December 7, 1941, has required, that the privilege of the writ of habeas corpus be and remain suspended within the Territory of Hawaii and that the Territory of Hawaii be placed and remain under martial law;

that it is my opinion that the said suspension of the privilege of the writ of habeas corpus now is necessary, and has been necessary at all times since the said attack and invasion upon December 7, 1941, for the prosecution in the Territory of Hawaii by the United States of the war against the Empire of Japan; that it is my opinion that martial law now is necessary, and at all times since the said attack and invasion on December 7, 1941, has been necessary, for the prosecution in the Territory of Hawaii by the United States of the war against the Empire of Japan; that it is my opinion that the issuance and enforcement of the General Orders, numbers 1 to 53, issued by Robert C. Richardson, Jr., Lieutenant General, United States Army, in his capacity as the Commanding General, United States Army Forces, Central Pacific Area, and as the Military Governor of the Territory of Hawaii, between March 10, 1943, and [74] March 2, 1944, both dates inclusive, and the enforcement thereof, now are and at all times since the issuance thereof, were necessary for the prosecution in the Territory of Hawaii by the United States of the war against the Empire of Japan; that it is my opinion that the trial and conviction of Lloyd Clifford Duncan on March 2, 1944, by Arthur L. Mundo, Lieutenant Commander, United States Navy, (Ret.), Provost Court, Pearl Harbor, T. H., in Case No. 650-44 of said Provost Court, for a violation of Paragraph 8.01, Title 8, General Orders No. 2, Office of the Military Governor, 10

March 1943, and the imposition and execution of the sentence imposed upon said Lloyd Clifford Duncan in said case, were and are necessary for the prosecution in the Territory of Hawaii by the United States of the said war against the Empire of Japan.

/s/ C. W. NIMITZ
Admiral, U. S. Navy
Commander in Chief
U. S. Pacific Fleet and
Pacific Ocean Areas

Subscribed and sworn to before me this 22nd day of March, 1944.

/s/ NAT LOGAN SMITH
Notary Public, First Judicial Circuit, Territory of Hawaii.

My commission expires March 28, 1947. [75]

EXHIBIT M

In the District Court of the United States in and for the Territory of Hawaii

Habeas Corpus No. 298

In the Matter of the Application

of

LLOYD C. DUNCAN

For a Writ of Habeas Corpus.

United States of America
Territory of Hawaii
City and County of Honolulu—ss.

I, Robert C. Richardson, Jr., Lieutenant General,

United States Army, Commanding General, United States Army Forces, Central Pacific Area, being first duly sworn on oath depose and say:

That I was graduated from the United States Military Academy June 15, 1904, and commissioned a Second Lieutenant; that thereafter and at various times I received succeeding promotions in the United States Army including my promotion to the rank of Lieutenant General (temporary) on June 1, 1943.

That I served with the United States Army in the Philippines during which service I was engaged in the field against hostile forces at Jolo and participated in various engagements against the insurgents during the year 1905; that my service thereafter was within the continental United States until I was again ordered to the Philippines, where I served until March 4, 1912; that thereafter I returned to the continental United States where I served at various stations, including a tour of duty as an assistant professor at the United States Military Academy, until December 1, 1917, at which time I was ordered to France where I served as Aide and observer with foreign armies until January 9, 1918. [76]

I served with the Operations Division, General Staff, American Expeditionary Forces, to June 14, 1918; as Liaison Officer for G.H.Q. with Allied Headquarters and with American Armies, Corps and Divisions during the operations of 1918; escorted Allied Missions in St. Mihiel offensive; was Liaison Officer at Headquarers 1st Army, for open-

ing of Meuse-Argonne offensive; was representative of Operations Officer, at Advance General Headquarters, to January 28, 1919; served with Reparations Board, Peace Commission, Paris, France, to February 28, 1919; served on temporary duty at Headquarters, Third Army, Coblenz, Germany, and was attached to Headquarters, 10th French Army, Mayence, Germany, to June 1, 1919; returned to the United States on July 6, 1919, and served with the War Plans Division, War Department General Staff, Washington, D. C., to August 9, 1920; and in the office of the Chief of Cavalry, to January 28, 1921.

After approximately two years of further service in the Philippine Department I returned to the United States on April 6, 1923, and thereafter I attended the Command and General Staff School, Fort Leavenworth, Kansas, and the Ecole Superieure de Guerre, Paris, France. Thereafter I served as Military Attache, Rome, Italy, to March 21, 1928.

I was appointed Commanding Officer, Provisional Battalion, and Executive Officer, United States Military Academy, and served as such until March 2, 1929; and Commandant of Cadets and Head of the Department of Tactics to June 30, 1933. Thereafter I was graduated on June 30, 1934, from the Army War College, Washington, D. C., and served with the Military Intelligence Division, War Department General Staff, to December 7, 1935.

My commands thereafter included the 5th Cavalry at Fort Clark, Texas, until June, 1938, the 2nd Cavalry [77] Brigade at Fort Bliss, Texas.

On February 11, 1939 I was appointed as Commandant of the Cavalry School, Fort Riley, Kansas; commanded the 1st Cavalry Division, Fort Bliss, Texas; and on February 11, 1941 was appointed Director of the Bureau of Public Relations, Washington, D. C.

On July 17, 1941 I was assigned to command the VII Army Corps with headquarters at Birmingham, Alabama and later, after the outbreak of hostilities, was ordered to San Jose, California as Commanding General of the Northern California Sector of the Western Defense Command and VII Army Corps.

In May 1942 I was selected to represent the Chief of Staff on a tour of inspection in the Pacific during which I conferred with General MacArthur in Australia and visited Hawaii, New Caledonia and New Guinea.

On June 1, 1943 I assumed the command of the Hawaiian Department and the position of Military Governor of the Territory of Hawaii and thereafter on August 14, 1943, in compliance with a directive from the President, I assumed command of all United States Army forces in the Central Pacific Area which said command I held on 2 March 1944 and still hold.

In my official position as Commanding General, United States Army Forces, Central Pacific Area, I have access to and there is communicated to me Military and Naval information of a highly secretive and confidential nature relating to the prosecution of the war against the Empire of Japan by the

United States within this theater of war of which the Territory of Hawaii constitutes a part, and based thereon and my experience and observations in the Territory of Hawaii and the entire Central Pacific Area, I make the following statements of fact and expressions of opinion: [78]

1. That the Territory of Hawaii now is, and at all times since the attack thereon and the invasion thereof by the armed forces of the Empire of Japan on December 7, 1941, has been, an actual theater of the war between the United States and the Empire of Japan; that active land, naval, and air operations of said war now exist and are being conducted and have existed and continued in the said Territory of Hawaii since the said attack thereon and invasion thereof on December 7, 1941, as aforesaid.

2. That is it my opinion that the said Territory of Hawaii now is, and at all times since the attack thereon and the invasion thereof by the armed forces of the Empire of Japan on December 7, 1941, has been, in imminent danger of invasion by the armed forces and other agents and agencies of the Empire of Japan; that it is my opinion that the public safety of the Territory of Hawaii and of the United States now requires, and at all times since the said attack on and the said invasion of the said Territory of Hawaii by the said armed forces of the Empire of Japan on December 7, 1941, has required, that the privilege of the writ of habeas corpus be and remain suspended within the Territory of Hawaii and that the Territory of Hawaii be placed and remain under martial law;

that it is my opinion that the said suspension of the privilege of the writ of habeas corpus now is necessary, and has been necessary at all times since the said attack and invasion upon December 7, 1941, for the prosecution in the Territory of Hawaii by the United States of the war against the Empire of Japan; that it is my opinion that martial law now is necessary, and at all times since the said attack and invasion on December 7, 1941, has been necessary, for the prosecution in the Territory of Hawaii by the United States of the war against the Epmire of Japan; [79] that it is my opinion that the issuance of General Orders, Number 1 to 53, inclusive, issued by me in ~~my~~ capacity as the Commanding General, United States Army Forces, Central Pacific Area, and as the Military Governor of the Territory of Hawaii, between March 10, 1943, and March 2, 1944, both dates inclusive, and the enforcement thereof, now are and at all times since the issuance thereof, were necessary for the prosecution in the Territory of Hawaii by the United States of the war against the Empire of Japan; that it is my opinion that the trial and conviction of Lloyd Clifford Duncan on March 2, 1944, by Arthur L. Mundo, Lieutenant Commander, United States Navy (Ret.), Provost Court, Pearl Harbor, T. H., in Case No. 650-44 of said Provost Court, for a violation of Paragraph 8.01, Title 8, General Orders No. 2, Office of the Military Governor, 10 March 1943, and the imposition and execution of the sentence imposed upon said Lloyd Clifford Duncan in said case, were and are necessary for the

prosecution in the Territory of Hawaii by the United States of the said war against the Empire of Japan.

/s/ ROBERT C. RICHARDSON, Jr.
Lieutenant General, United States Army
Commanding General, United States Army Forces, Central Pacific Area

Subscribed and sworn to before me this 24th day of March, 1944.

/s/ N. F. JOHNSON
Notary Public, First Judicial Circuit, Territory of Hawaii.

My commission expires November 28, 1946. [80]

EXHIBIT N

Honolulu Star-Bulletin, Wednesday, March 10, 1943

GENERAL ORDERS OF THE MILITARY GOVERNOR TERRITORY OF HAWAII

The proclamations of February 8, 1943, provided for the relinquishment to the proper civilian authorities of a portion of the functions created and performed under my direction as Military Governor. Those proclamations also provided that those parts of all military orders affecting the functions so relinquished were to be revoked thirty days after the date of the proclamations.

Exhibit N—(Continued)

I have recognized that the rescission of some General Orders and the retention of others might confuse the public unless proper clarification is made of the General Orders which will continue in effect. Therefore, it has been considered advisable to rescind all previous General Orders of this office, effective March 10, 1943, and to issue a new series of General Orders codifying all regulations presently necessary. The new series consists of fourteen General Orders which are the only ones applicable in the Territory of Hawaii commencing this date, March 10, 1943. They are published herewith, grouped in one publication for convenience.

No district regulations will be published for separate islands; regulations applicable to one of the islands of the Territory and not to others, will be considered on the recommendation of the Commanding Generals of the respective districts and will be incorporated in the General Orders hereafter issued by this office.

It is recognized that amendments to these General Orders may be necessary and additional Orders may issue covering new subjects. These will appear in your newspapers from time to time.

It is, of course, difficult to promulgate regulations with the maximum of brevity and still convey the full contents of the desired policy. Any ques-

Exhibit N—(Continued)

tion of interpretation or any suggestions will be given prompt consideration.

DELOS C. EMMONS
Lieutenant General, United States Army
Commanding General, Hawaiian Department
Military Governor of the Territory of Hawaii.

General Orders No. 1
Appointment of Executive and Assistant Executive

General Orders No. 2
Courts and Commissions and Offenses Relating to the Administration of Justice

General Orders No. 3
Blackout

General Orders No. 4
Air Raid

General Orders No. 5
Civilian Security

General Orders No. 6
Aliens

General Orders No. 7
Military Areas

General Orders No. 8
Identification and Registration

General Orders No. 9
Communications

General Orders No. 10
Labor

Exhibit N—(Continued)

General Orders No. 11
Military Property

General Orders No. 12
Travel

General Orders No. 13
Rescission of General Orders Nos. 1 to 181, Inclusive, Saving Clause, and Effective Date of General Orders Nos. 1 to 14, Inclusive, This Office, Dated 10 March 1943

General Orders No. 14
Organization of the Office of the Military Governor

10 March 1943

GENERAL ORDERS No. 1

1. Executive.

1.01 Thomas H. Green, Bridgadier General, A.U.S., hereby is appointed Executive of the Military Governor.

2. Assistant Executive.

2.01 William R. C. Morrison, Colonel, J.A.G.D., hereby is appointed Assistant Executive of the Military Governor.

DELOS C. EMMONS
Lieutenant General, United States Army
Commanding General, Hawaiian Department
Military Governor of the Territory of Hawaii

Exhibit N—(Continued)

10 March 1943

GENERAL ORDERS No. 2

Courts and Commissions and Offenses
Relating to the Administration of Justice

1. Martial Law and the Writ of Habeas Corpus.
2. Civil Courts.
3. Provost Courts and Military Commissions.
4. Military Commissions.
5. Provost Courts.
6. Provost Court Commissioner.
7. Attempts and Conspiracies to Violate a General Orders.
8. Interference with Military Police and Personnel.
9. False Statements to, or Misusing Authorizations Granted by, Agencies of the Military Governor.
10. Power of Civilian Police Officer to Make Arrests for Violation of General Orders of the Military Governor.
11. Definition of "Person."
12. Prosecution of Offenses under Rescinded General Orders.

1. Martial Law and the Writ of Habeas Corpus.

1.01. A state of marital law remains in effect and the privilege of the writ of habeas corpus has been, and remains, suspended.

2. Civil Courts (Pursuant to Proclamations of February 8, 1943).

Exhibit X—(Continued)

2.01 Civil courts are authorized to exercise their normal jurisdiction as provided by law, except that such courts shall not have jurisdiction of the following:

Criminal prosecutions against members of the armed forces. Members of auxiliary armed forces shall be included within the term "armed forces" after induction into the service and also before induction in respect of any act or omission certified by the Commanding General, Hawaiian Department, to be in the line of duty;

Civil suits against members of the armed forces, as defined above, in respect of any act or omission certified by the Commanding General, Hawaiian Department, to be in the line of duty;

Criminal prosecutions for violations of military orders.

2.02. The Commanding General, Hawaiian Department, may waive the above exception with respect to any particular prosecution or suit, or any class of prosecutions or suits, thereby permitting such prosecutions or suits to be tried in the appropriate court of the territory or in the United States District Court for Hawaii, as the case may be.

3. Provost Courts and Military Commissions.

3.01. Provost Courts and Military Commissions shall have jurisdiction and power, and hereby are authorized and empowered, to try and determine any case, matter, or proceeding involving any violation or violations by a civilian or civilians of the rules, regulations, proclamations, or Orders of the

Exhibit N—(Continued)

Military or Naval authorities, or of the Military Governor of the Territory of Hawaii, or of the laws of war; and, such Provost Courts and Military Commissions in addition to the power to impose upon or against any person or persons charged or tried in any such case, matter, or proceeding, the penalties, forfeitures, and similar punishment otherwise authorized by the General Orders of the Military Governor, shall have power, and hereby are authorized and empowered, to punish any such person or persons committing such violation or violations, or offense or offenses, by fine or imprisonment with or without hard labor, or by both such fine and imprisonment, as may be ordered or provided in the General Orders of the Military Governor. Such Provost Courts or Military Commissions shall have jurisdiction, and power, and hereby are authorized and empowered, to try and punish members of the Armed Forces of the United States only for violations of any statute of the Territory of Hawaii, or of any ordinance, resolution, by-law, regulation, or rule of any city, city and county, county, or other municipal corporation or political subdivision of the Territory of Hawaii, or of any order, regulation, or rule of the Military or Naval authorities or of the Military Governor of the Territory of Hawaii, regulating or relating to vehicular or pedestrian traffic. The concurrent jurisdiction of the Armed Forces of the United States to court-martial or otherwise discipline commissioned or enlisted per-

Exhibit N—(Continued)

sonnel of their respective services for such traffic offenses is not withdrawn by anything herein contained.

3.02. Charges involving major offenses shall be referred to a Military Commission for trial and determination, unless otherwise ordered by the Military Governor of the Territory of Hawaii. Other cases involving charges of lesser degree shall be tried and determined by Provost Courts. Military Commissions and Provost Courts will adjudge appropriate sentences commensurate with the offense. In adjudging such sentences, Provost Courts and Military Commissions will be guided by, but not limited to or bound by, the penalties provided by the Courts-Martial Manual, the laws of the United States, the laws of the Territory of Hawaii, the laws of the District of Columbia, county, and city and county ordinances, and the customs of law in like cases. The maximum fine or confinement, or both fine and confinement, which a Provost Court may adjudge as punishment, is confinement with or without hard labor for a period not to exceed five (5) years, or a fine not to exceed five thousand dollars ($5,000.00), or both such confinement and fine. The foregoing limitation on the fine or confinement, or fine and confinement, that a Provost Court may adjudge, shall not restrict the power and authority of such a Provost Court to order and direct the confiscation and destruction of property, the suspension, cancellation, or revocation of licenses, or such other penalties or sentences in

Exhibit N—(Continued)

addition to such fine or confinement, or both, as may be provided by this or any other General Orders of the Military Governor. Military Commissions may adjudge confinement with or without hard labor for any number of years, or for life, or may adjudge the death penalty, and may impose fines with or without such confinement, in any case tried and determined by a Military Commission. The sentences adjudged by a Provost Court shall become effective immediately. The sentence adjudged by a Military Commission shall not become effective until it shall be have been approved by the Military Governor.

3.03. Any person who fails, neglects, or refuses to comply with any subpoena, summons, citation, notice, warrant of arrest, commitment, order of commitment, or other process, issued by a Provost Court, a Military Commission, the Trial Judge Advocate of a Military Commission, or by any duly authorized agent or representative of such a Provost Court or Military Commission, or who uses any menacing words, signs or gestures in the presence of a Provost Court or Military Commission, or who disturbs the proceedings of a Provost Court or Military Commission by a riot or disorder or in any manner, or who in any manner or way wilfully disobeys any rule or order of a Provost Court or Military Commission, shall be deemed to be guilty or contempt of such Provost Court or Military Commission, and may be tried and punished for such contempt by such Provost Court or Mili-

Exhibit N—(Continued)

tary Commission summarily or as such Provost Court or Military Commission may otherwise determine.

3.04. Provost Courts and Military Commissions, in addition to the power to impose a fine or confinement, or both such fine and confinement, as otherwise authorized in this General Orders or any other General Orders of the Military Governor of the Territory of Hawaii, upon conviction of a person for a violation of a General Orders of the Military Governor or for any offense that may be tried and determined by such Provost Courts or Military Commissions, shall have power and hereby are authorized and empowered to suspend, cancel, or revoke, or direct or order the suspension, cancellation, or revocation of any license, franchise, or permit of a personal nature issued by the Military Governor or any agent or representative thereof to the person so convicted, and also shall have power and hereby are authorized and empowered, upon conviction of any person as aforesaid, to suspend, cancel, or revoke, or order or direct the suspension, cancellation, or revocation of, any license, permit, or franchise of a personal nature issued to such person so convicted by any federal or territorial officer, department, agent or agency, or by any department, officer, agent or agency of any municipal corporation or other political subdivision within the Territory of Hawaii.

3.05. In all cases of violation of any provision of any General Orders of the Military Governor,

Exhibit N—(Continued)

where no other or different provision for fine or confinement or both is provided by such General Orders, the maximum fine or confinement, or both fine or confinement, that a Provost Court may impose, shall be a fine not to exceed five thousand dollars ($5,000.00), or confinement with or without hard labor not to exceed five (5) years, or both such fine and confinement. The limitations on punishment in any General Orders defining an offense and providing a punishment for such offense shall not be deemed a limitation upon the punishment or sentence that a Military Commission may impose if such offense be tried and determined by a Military Commission rather than by a Provost Court.

3.06. Provost Courts and Military Commissions hereby are authorized and empowered to forfeit or confiscate or to order or direct the forfeiture or confiscation or other disposition of any personal property used, or having for its sole purpose use, in the commission of a violation of any of the provisions of any of the General Orders of the Military Governor now in full force and effect or hereafter enacted or issued.

3.07. Provost Courts hereby are authorized, empowered, and directed, and Military Commissions hereby are authorized and empowered in their discretion, to admit persons arrested for or charged with an offense triable by such Provost Courts or Military Commissions to cash bail, to fix and accept said bail, provided, however, that such bail shall not be excessive, to determine the conditions sub-

Exhibit N—(Continued)

ject to which such bail may be or is furnished, and to order and direct forefeiture thereof, and the manner in which the said bail may be forfeited. The police departments of any county, or city and county, within the Territory of Hawaii, when authorized, impowered, and directed to do so by the Military Governor of the Territory of Hawaii, may also fix and accept bail for offenses triable by such Provost Courts. Bail may be set by the Provost Court Commissioner.

3.08. The record of trial in cases before Military Commissions will be substantially similar to that required in a general courts-martial. The record of trial in cases before Provost Courts will be substantially similar to that in the case of a summary courts-martial. The procedure in trials before Military Commissions and Provost Courts will follow so far as it is applicable, the procedure required by general and summary courts-martial respectively. The records of trial in all cases will be forwarded to the Office of the Military Governor.

3.09. All charges brought in the Provost Courts or before Military Commissions shall be preferred by either the Provost Marshal, Hawaiian Department, the Provost Marshal of a Military district within said Hawaiian Department, or such deputies or assistants of said Provost Marshals and such other persons as first shall be approved by the Military Governor. The Provost Court Commissioner

Exhibit N—(Continued)

is responsible for the prompt trial of all prisoners in Provost Courts or before Military Commissions, and the Provost Marshals shall be responsible for carrying out the sentence adjudged by the Court or Commission.

4. Military Commissions.

4.01. A Military Commission hereby is appointed to meet at such times and places within the Territory of Hawaii as the President of said Military Commission may direct, for the trial of such persons as may be properly brought before it.

4.02. The following persons shall comprise the detail for said Military Commission:

Major General James A. Woodruff, U.S.A., President and Law Member.
Col. John H. Howard, U.S.A.
Lt. Col. Virgil G. Allen, General Staff Corps.
Lt. Col. Ray O. Welch, Ordnance Department.
Lt. Col. Moe D. Baroff, Infantry.
Major Eugene V. Slattery, J.A.G.D., Trial Judge Advocate.
Lt. Col. Harrison M. Coppin, A.G.D., Defense Counsel.
Captain Sam B. Thomas, C.M.P., Assistant Defense Counsel.

4.03. The defendant in any case tried before said Military Commission may retain and introduce individual counsel of his own selection to represent him in said proceedings.

Exhibit A (Continued)

5. Provost Courts.

5.01. Each of the following persons hereby is appointed as a Provost Court, and assigned to duty as such in addition to his other duties, for the trial of such persons as may properly be brought before the court, at the respective places as hereinafter designated, viz.:

At Hilo, Hawaii, T. H.
Col. Arthur C. Huston, Jr., Inf.
Captain William A. E. King, J.A.G.D.
1st Lt. Woolbridge B. Morton, Jr., F.A.

At Honolulu and Kaneohe, Oahu, T. H.
Col. John H. Howard, U.S.A.
Lt. Col. Moe D. Baroff, Inf.
Major Eugene V. Slattery, J.A.G.D,
Captain John F. Wickhem, J.A.G.D.

At Lihue, Kauai, T. H.
Major Charles A. Fisher, Inf.

At Lanai City, Lanai, T. H.
Arthur W. Carlson.

At Wailuku, Maui, T. H.
Major Merryl G. Shaver, J.A.G.D.

At Kaunakakai, Molokai, T. H.
Major Merryl G. Shaver, J.A.G.D.

At Palmyra Island, T. H.
The Commanding Officer, United States Nayal Air Station.

At Schofield Barracks and Pearl City, Oahu, T. H.
Lt. Col. Henry DuPree, Inf.

Exhibit N—(Continued)

6. Provost Court Commissioner.

6.01. There is hereby created the office of Provost Court Commissioner for the Territory of Hawaii.

6.02. The powers and duties of such Provost Court Commissioner shall be as follows:

To establish a method of process for Provost Courts and Military Commissions and to prepare and recommend rules and regulations of procedure to be promulgated by the Military Governor;

To have charge of and be responsible for, acting under the direction of the Military Governor, the prosecution of all cases before the Provost Courts, and to appear in and prosecute such cases personally or through prosecutors selected from those duly designated and approved pursuant to Paragraph 3.09 of this General Orders No. 2 to prefer charges; provided, however, that the said Provost Court Commissioner may at any time that he elects to do so appear in, take over, and prosecute any case before the Provost Courts at any stage of the proceedings in such case;

To supervise and coordinate the operations and activities of the Provost Courts and Military Commissions, including the assignment of cases and determination of questions of jurisdiction;

To coordinate the operations and activities of such Provost Courts and Military Commissions with the activities of the federal and territorial courts, so that a full, complete and expeditious administration of justice may be had and main-

Exhibit N—(Continued)

tained in the Territory of Hawaii during the present emergency;

To have the power of administering oaths or affirmations and to have all other powers necessary or incidental to an efficacious accomplishment of the foregoing duties;

To perform such other duties and functions and exercise such other powers as may from time to time be directed or authorized by the Military Governor.

6.03. Edward N. Sylva, Captain, J.A.G.D., hereby is appointed the Provost Court Commissioner for the Territory of Hawaii and assigned to duty as such Provost Court Commissioner in addition to his other duties.

7. Attempts and Conspiracies to Violate a General Orders.

7.01. An attempt to commit a violation of a General Orders of the Military Governor or any offense triable by a Provost Court or a Military Commission is some act done towards committing and in part execution of the intent to commit the same. No person, firm, corporation, or other association or group of persons, shall attempt to commit a violation of any provisions of a General Orders of the Military Governor, or attempt to commit any offense triable by a Provost Court or a Military Commission.

7.02. A conspiracy is a wilful or malicious combination or mutual undertaking or concerting together of two or more persons to commit a viola-

Exhibit N—(Continued)

tion of a General Orders of the Military Governor, or any offense triable by a Provost Court or a Military Commission, or instigate any other person thereto; or to do what plainly and directly tends to excite or occasion such a violation. No person shall conspire to violate any provision of a General Orders of the Military Governor, or attempt to commit any offense triable by a Provost Court or a Military Commission.

7.03. Any person knowingly acceding to and joining in a conspiracy after the same is formed, is a party thereto, no less than the one who originally takes part in forming the same. The act of each party to a conspiracy, in pursuance thereof, is the act of all. It shall not be necessary that the act agreed upon shall be done or attempted in pursuance of the conspiracy, as the conspiracy, itself, constitutes the offense.

8. Interference With Military Police and Personnel.

8.01. No person shall commit an assault or an assault and battery on any military police, any member of the shore patrol, or other military or naval personnel, with intent to resist, prevent, hinder, or obstruct him in the discharge, execution, or performance of his duty as such, nor shall any person wilfully interfere or attempt to interfere with any military police, any member of the shore patrol, or other military or naval personnel in the performance of his official, defined, or required duties as such.

Exhibit N—(Continued)

8.02. No person shall commit an assault or an assault and battery on a federal, territorial or municipal police officer with intent to resist, prevent, hinder, or obstruct said police officer in the arrest of a person violating, or charged with a violation of, any General Orders of the Military Governor, or for any offense that may be tried and determined by a Provost Court or Military Commission, nor shall any person wilfully interfere with any such federal, territorial, or municipal police officer in the performance of any duties imposed upon such police officer, or which the said police officer is authorized or empowered to perform by any General Orders of the Military Governor.

8.03. No person, who is or has been made prisoner, or now or hereafter is detained, on conviction or charge of any offense defined by any General Orders of the Military Governor, or triable by a Provost Court or Military Commission, shall escape from imprisonment or detention against the will of the officer or person having him in custody or against the will or consent of the Military Governor.

8.04. No person shall, after another person has committed an offense constituting a violation of any of the General Orders of the Military Governor, or a violation that may otherwise be tried and determined by a Provost Court or a Military Commission, harbor, conceal, or aid such other person, with knowledge or having good reason to believe

Exhibit N—(Continued)

that such other person has committed such offense, and with the intent that such other person may avoid or escape from arrest, trial, conviction, or punishment for such offense.

9. False Statements to, or Misusing Authorizations Granted By, Agencies of the Military Governor.

9.01. Definition of "Office of the Military Governor." The term "Office of the Military Governor," as used herein shall include, and hereby is defined to mean, any of the following, to wit:

The Military Governor of the Territory of Hawaii;

The agencies, agents, committees, departments, directors, divisions, employees, sections, and all other personnel, included within the organization of the Office of the Military Governor;

Any representative of the Military Governor not specifically included or mentioned in the subdivision immediately above; and

The successor or successors, if any, of any of those included or mentioned within the three subdivisions immediately above.

9.02. Definition of "Statement." The term "statement," as used herein, shall include, and hereby is defined to mean, any of the following, to wit: Account, affidavit, oral or written application, bill, claim, deposition, document, form, instrument, letter, oral or written report, oral or written representation, roll, voucher, or any document, instrument, or oral or written statement not specifically mentioned heretofore in this sentence.

Exhibit N—(Continued)

9.03. Definition of "Authorization." The term "authorization," as used herein, shall include, and hereby is defined to mean, any approval, certificate, permit, release, license, order, parole, commutation or suspension of sentence, power, privilege, waiver, or other document or instrument, authorized, granted, or issued, or that may be authorized, granted, or issued, by the Office of the Military Governor.

9.04. No person, firm, or corporation, shall, in any matter within the jurisdiction of the Office of the Military Governor, wilfully falsify, or wrongfully or fraudulently conceal to cover up by any trick, scheme, or by any act of omission or commission, any fact concerning said matter. No person, firm, or corporation, shall make or cause to be made, or present or cause to be presented, to the Office of the Military Governor, any false, fictitious, misleading, evasive, or fraudulent statement, for the purpose of securing, obtaining, or receiving any authorization, payment of money, or any consideration or determination of any matter by the Office of the Military Governor, or for any purpose whatsoever, knowing or having reason to believe such statement to be false, fictitious, misleading, evasive, or fraudulent in whole or in any part, particular, or item thereof, or without having good and substantial reason to believe such statement to be true and correct in whole and in every part, particular, and item thereof.

Exhibit N—(Continued)

9.05. No person, firm, or corporation, shall receive or obtain, or cause to be received or obtained, from the said Office of the Military Governor, any authorization for any purpose or use other than that purpose or use for which it was granted, authorized, issued, or intended by the said Office of the Military Governor; and no person, firm, or corporation, who or which shall have received or obtained any authorization from the Office of the Military Governor, shall use or employ, or allow, permit, or cause to be used or employed, the authorization so obtained, for any purpose or use other than that for which it was granted, authorized, issued, or intended by said Office of the Military Governor; and no person, firm, or corporation, who or which shall have obtained any materials, fixtures, goods, wares, merchandise, or any other personal property, by means of or pursuant to any authorization, shall employ, use, or dispose of, any of the said materials, fixtures, goods, wares, merchandise, or other personal property, for any purpose, use, or disposition, other than that purpose, use, or disposition authorized by the authorization by means of or pursuant to which ownership or possession of said property was obtained or is held by said person, firm, or corporation, unless such person, firm, or corporation is authorized in writing by the Office of the Military Governor to so otherwise use, employ, or dispose of said property.

Exhibit N—(Continued)

9.06. No person who shall have taken an oath or affirmation in a trial or any proceeding before a Provost Court or a Military Commission appointed by the Office of the Military Governor of the Territory of Hawaii, or in connection with any affidavit, deposition, or other instrument or document intended to be used or actually used in any such trial or proceeding, shall wilfully swear or affirm falsely in regard to any matter or thing, whether material or immaterial, during such trial or other proceeding, or concerning which, such trial or other proceeding is being had by said Provost Court or said Military Commission or wilfully swear or affirm falsely in regard to any matter or thing, whether material or immaterial, contained in such affidavit, deposition, or other instrument or document.

9.07. Any person, firm, or corporation who or which violates, refuses, fails, or neglects to comply with any of the provisions of this Title 9 of this General Orders, or who or which evades or attempts to evade any of the provisions of this Title 9, upon conviction thereof, if a natural person, shall be punished by confinement, with or without hard labor, not to exceed five (5) years, or by a fine not to exceed five thousand dollars ($5,000.00), or by both such confinement and fine, or if a corporation or other than a natural person, by a fine not to exceed five thousand dollars ($5,000.00).

9.08. The provisions of this Title 9 of this General

Exhibit N—(Continued)

Orders shall be in addition to any provisions contained in any other General Orders. If any act or acts prohibited by this Title 9 also is or are prohibited by or made a violation or violations of any other General Orders, the offender may be convicted or punished or convicted and punished, for a violation of either this Title 9 or such other General Orders.

10. Power of Civilian Police Officer to Make Arrests.

10.01. All law enforcement officers of the United States, police officers of the Territory of Hawaii, all police officers of all municipal corporations and other political subdivisions within the Territory of Hawaii, and all other public officers of public employees granted power or authority to make arrests by the laws of the United States, by the laws of the Territory of Hawaii, or by the ordinances, rules, or regulations of any municipal corporation or other political subdivision or department of or within the Territory of Hawaii, hereby are authorized, empowered, directed, and ordered to forthwith arrest, without warrant of arrest, all persons who, in the presence of such police officers or persons so authorized to arrest, commit any violation of any General Orders of the Military Governor now in full force and effect or hereafter enacted or issued, or any offense triable by a Provost Court or a Military Commission. No cause of action or claim for damages against such police officer or person making such arrest shall accrue in favor of any person arrested as authorized or provided

Exhibit N—(Continued)

herein, provided, however, that no more force be used by such police officer or person in effecting such arrest than is authorized by law. No person arrested by any of the said law-enforcement officers, police officers, public officers, or public employees, for any violation of any General Orders of the Military Governor now in full force and effect or hereafter enacted or issued, or for any offense triable by a Provost Court or a Military Commission, shall file, commence, institute, maintain, or prosecute any complaint, petition, suit, action, or other proceedings for false arrest, false imprisonment, or for any other cause, reason, or purpose whatsoever, arising out of or because of the fact that such person was arrested by said law-enforcement officers, police officers, public officers, or public employees, for any such violation or offense; nor shall any person allow or permit any complaint, petition, suit, action, or other proceedings for false arrest, false imprisonment or for any other purpose whatsoever arising out of or because of the fact that such person was arrested by said law-enforcement officers, police officers, public officers, or public employees, for any such violation or offense, to be filed, commenced, instituted, maintained or prosecuted.

11. Definitions of "Person."

11.01. Unless otherwise clearly indicated in the General Orders in which used, the term "person," as used in any General Orders of the Military Governor, shall include, and hereby is defined to mean,

Exhibit N—(Continued)

any natural person or persons, firms, associations, trusts, corporation or corporations, or any agent, servant, employee, or representative of any of the foregoing.

12. Prosecution of Offenses Under Rescinded General Orders.

12.01. It is expressly provided that no revocation or rescission of General Orders of and by the Military Governor, nor any proclamation issued by the Military Governor, shall operate to invalidate any conviction, or any application of such military orders to persons or activities, and Provost Courts and Military Commissions hereby are expressly authorized and empowered to try and determine any proceeding for violation of a provision of a General Orders of the Military Governor at any time hereafter, notwithstanding any such rescission or revocation, heretofore or hereafter made, for an offense committed while such General Orders remained in full force and effect.

By order of the Military Governor of the Territory of Hawaii:

THOMAS H. GREEN
Brigadier General, A.U.S.
Executive

10 March 1943

GENERAL ORDERS NO. 3

Blackout

1. Hours of Blackout.
2. Use and Control of Lights During Hours of Blackout.

Exhibit N—(Continued)

3. Motor Vehicle Blackout.
4. Traffic During Hours of Blackout.
5. Workers Going to Work in the Morning.
6. Personal Identification During Hours of Blackout.
7. Places of Amusement and Business.
8. Enforcement.

1. Hours of Blackout.

1.01. City and County of Honolulu, District of Maui, District of Kauai, and District of Lanai-Molokai. The hours of blackout for the City and County of Honolulu, the District of Maui, the District of Kauai, and the District of Lanai-Molokai shall be as set forth in the following schedule for the periods of time indicated:

Dates				Hours	
From		Through		From	To
10 March	1943	14 March	1943	7:30 p.m.	7:00 a.m.
15 March	1943	31 March	1943	7:45 p.m.	6:45 a.m.
1 April	1943	14 April	1943	7:45 p.m.	6:30 a.m.
15 April	1943	30 April	1943	7:45 p.m.	6:15 a.m.
1 May	1943	31 May	1943	8:00 p.m.	6:00 a.m.
1 June	1943	31 July	1943	8:15 p.m.	6:00 a.m.
1 August	1943	31 August	1943	8:06 p.m.	6:15 a.m.
1 September	1943	14 September	1943	7:45 p.m.	6:15 a.m.
15 September	1943	30 September	1943	7:30 p.m.	6:30 a.m.
1 October	1943	14 October	1943	7:15 p.m.	6:30 a.m.
15 October	1943	31 October	1943	7:00 p.m.	6:30 a.m.
1 November	1943	14 November	1943	7:00 p.m.	6:45 a.m.
15 November	1943	14 December	1943	6:45 p.m.	7:00 a.m.
15 December	1943	14 January	1944	7:00 p.m.	7:15 a.m.

1.02. District of Hawaii. The hours of blackout for the District of Hawaii shall be as set forth in the following schedule for the periods of time indicated:

Exhibit N—(Continued)

Dates				Hours	
From		Through		From	To
10 March	1943	14 March	1943	7:15 p.m.	6:45 a.m.
15 March	1943	31 March	1943	7:30 p.m.	6:30 a.m.
1 April	1943	14 April	1943	7:30 p.m.	6:15 a.m.
15 April	1943	30 April	1943	7:30 p.m.	6:00 a.m.
1 May	1943	31 May	1943	7:45 p.m.	5:45 a.m.
1 June	1943	31 July	1943	8:00 p.m.	5:45 a.m.
1 August	1943	31 August	1943	7:45 p.m.	6:00 a.m.
1 September	1943	14 September	1943	7:30 p.m.	6:00 a.m.
15 September	1943	30 September	1943	7:15 p.m.	6:15 a.m.
1 October	1943	14 October	1943	7:00 p.m.	6:15 a.m.
15 October	1943	31 October	1943	6:45 p.m.	6:15 a.m.
1 November	1943	14 November	1943	6:45 p.m.	6:30 a.m.
15 November	1943	14 December	1943	6:30 p.m.	6:45 a.m.
15 December	1943	14 January	1944	6:45 p.m.	7:00 a.m.

2. Use and Control of Lights During Hours of Blackout.

2.01. General Restriction. During the hours of blackout, the use of exterior lights and interior lights which are visible on the outside of buildings, houses, or other structures is forbidden, except as is authorized by this General Orders.

2.02. Controlled Illumination. To provide a small amount of controlled illumination in homes and buildings sufficient to permit reasonable facility of movement without necessitating complete blackout of doors, windows and other openings, the use of limited lighting is authorized.

2.03. The following special requirements are prescribed for lamp bulbs used in the controlled lighting authorized in paragraph 2.02 above:

Watts—not more than 25 watts.

Exhibit N—(Continued)

Volts—220 to 240 volts to operate on 110 to 120-volt systems.

Base—medium screw.

Bulb—A19 Mazda or equal and internally frosted.

Bulb Coating—opaque except for circular aperture on bulb end.

Circular Aperture—maximum diameter 1 inch.

Opaque Coating Material—resistant to scratching or removal.

2.04. The following regulations are prescribed for the use of these lamp bulbs:

In small or medium-sized rooms (less than 200 square feet of floor area) only one lamp bulb shall be used per room.

In larger rooms and in corridors not more than one lamp bulb shall be used for each 200 square feet of floor area.

When more than one lamp bulb is used, the lamp bulbs shall be spaced at least 10 feet apart.

Lamp bulbs shall be placed at least 3 feet from any window, exterior door or opening and pointed towards the floor or ceiling.

Lamp bulbs shall not be pointed toward any window, exterior door or other opening or mirror.

These lamp bulbs in no case shall be used on the outside of buildings except on the approval of the Provost Marshal. They will not be used on lanais except on the written approval of the local Air Raid Warden.

Exhibit N—(Continued)

2.05. The use of the lamps authorized in this Title is not compulsory, but in the event they are not used, all blackout rules and regulations of the Military Governor shall be strictly observed.

2.06. Piers, Factories and Other Facilities. Any person, firm, or corporation who or which desires to operate and maintain any pier, factory or other facilities during the hours of blackout, shall make application to the Provost Marshal, Hawaiian Department, or the District Provost Marshal for special permission to do so.

2.07. Observation of Maximum Blackout in Piers, Factories, and Other Facilities. Any person, firm, or corporation who or which has been granted special permission by the Provost Marshal, Hawaiian Department, or the District Provost Marshal to operate and maintain any pier, factory, or other facilities during the hours of blackout, shall observe the maximum blackout consistent with the work to be done.

2.08. Special Blackout Regulations for Piers, Factories, and Other Facilities. In observing the maximum blackout consistent with the work to be done in any pier, factory, or other facilities authorized to be operated and maintained during hours of blackout pursuant to this General Orders, the following rules and regulations shall be complied with, in addition to any other provisions of the General Orders of the Military Governor relating to, or pertaining to, blackout restrictions:

Exhibit N—(Continued)

Windows shall be painted or otherwise blacked-out, so as not to emit any light.

Entrances and exits of such structures will be opened only to the extent necessary for the ingress and egress of persons and the movement of materials.

The minimum amount of illumination consistent with the efficient operation of such pier, factory, or other facilities will be used.

Lights which are authorized to be burned in piers, factories, and other facilities during the hours of blackout shall be shaded, insofar as possible, to throw the illumination downward only, so as not to be directly visible from the air or outside.

2.09. Private Incineration. No person, firm, or corporation shall destroy, by burning, any refuse, waste, garbage, rubbish, paper, sticks, or any other matter out-of-doors, nor shall any private incineration be engaged in or allowed out-of-doors, during the hours of blackout or for one hour previous to blackout, except on written authority of the Provost Marshal.

2.10. Carrying Lighted Cigarettes, Cigars and Pipes in the Open During Hours of Blackout. The carrying of lighted cigarettes, cigars, and pipes in the open and the use of matches and lighters in the open for the purpose of lighting cigarettes, cigars, and pipes, during the hours of blackout, except during air raids, air raid alarms and attacks, hereby is permitted.

Exhibit N—(Continued)

3.09. Fire Department Trucks. All lights on Fire Department trucks will conform to specifications set forth herein, except that the white light slot of the headlights may be one-half (½) inch wide by three (3) inches long.

If needed, Fire Department trucks may use a hooded white spotlight when going to a fire during peaceful times, but when returning from a fire, the headlights prescribed above, will be used. In case of a blitz or other emergency situation, no spotlights will be used. The hood for the white spotlight will encircle the circumference of the light and be at least two (2) inches longer than the diameter of the lens of the spotlight.

3.10. Ambulances, Doctors' Vehicles, and Utility Vehicles. All lights of ambulance and utility vehicles will conform to specifications set forth herein except that the white light slot of the headlights may be three-eighths (⅜) inch wide by three (3) inches long.

All lights on motor vehicles owned and operated by or by direction of, or under the supervision of, a physician or surgeon, in the practice of his profession will conform to the specifications set forth herein, except that the white light slot of the headlights may be one-fourth (¼) inch wide by two (2) inches long.

When responding to emergency calls, ambulances and utility vehicles may use a hooded white spotlight during peaceful times, if needed, but when returning to their stations, only the headlights pre-

Exhibit N—(Continued)

scribed will be used. In case of a blitz or other similar emergency situation, no spotlight will be used. The hood will encircle the circumference of the spotlight and will be at least two (2) inches longer than the diameter of the lens of the spotlight.

3.11. Lumber Carriers. Headlights on lumber carriers will conform to specifications set forth herein, with the following exceptions:

White light slot on the headlights may be three-fourths (¾) inch wide by three (3) inches long;

The outer edge of the metal shield will not have the lip prescribed for other vehicles;

With the vehicle on level surface, the headlights shall be so adjusted that the bottom of the slot is horizontal and so aimed that the visual cut-off up the top of the beam of a vertical screen thirty (30) feet in front of lamp is not higher than fifty-three (53) inches from the road level; and

The tail light may be mounted at the same height as the headlights.

Lumber carriers will be allowed to have one hooded white spotlight on the front of the carrier, at the top and one one hooded spotlight on the rear left side, near the seat of the operator. In peaceful times, these spotlights may be used when carrying loads of unusual length (over thirty-five (35) feet) when loading or unloading, and when maneuvering the vehicle in unusually difficult places. In case of a blitz or other similar emergency situation, no spotlight will be used. The hood will encircle

Exhibit N—(Continued)

2.11. Flashlights. Flashlights may be used during the hours of blackout. Except as is otherwise authorized in this paragraph, all flashlights shall be painted or otherwise fixed so as to give off a blue light. Military Police and members of the Civilian Police Department on night duty are authorized to use orange or red cellophane, paint, or other material, so as to give off a red or orange light, on the lens of their flashlights. Air Raid and Fire Wardens on night duty are authorized to use green cellophane, paint, or other materials, so as to give off a green light, on the lens of their flashlights.

2.12. Excessive Illumination. No person, firm, or corporation shall use, or cause to be used, excessively, any means of illumination during the hours of blackout.

2.13. Extinguishment of Lights During Air Raid and Other Attacks. No person, firm, or corporation shall, in case of an air raid, air raid alarm, attack, or invasion, during the hours of blackout, burn, or cause to be burned, any lights which will be visible out-of-doors, nor shall any person, firm, or corporation rekindle or turn on again such lights until the "All Clear" signal is sounded.

2.14. Businesses and other activities operating at night in the Kauai District, in such a manner as to require the use of outside lighting, shall comply with the following special blackout regulations:

Plantations requesting permission to engage in night harvesting, must be equipped with operating lights so constructed that no beam of light will be

Exhibit N—(Continued)

projected upwards. The lights used will be of minimum intensity necessary for operations and safety to personnel involved.

One or more radio receiving sets sealed to Station KTOH, with an operator constantly in attendance, will be continuously tuned to the Station in the immediate vicinity of any night harvesting project in order that all lights may be extinguished wtihout delay in the event an air raid or other warning should be broadcast.

Prior to the conducting of any authorized night harvesting operations by plantations, the Plans and Training Officer, District Headquarters, Kalaheo, Kauai, will be advised in order that the proper military and naval authorities may have knowledge of the locations in which lights will be exposed.

All other businesses or activities requesting permission to violate blackout regulations will comply with the above requirements with respect to the amount and type of outside lighting used, and a radio or other approved means of communication will be immediately available for the reception of notices to extinguish lights. Upon receipt of any application for permission to operate in violation of blackout restrictions subject to the above provisions, the District Provost Marshal will inspect the installations under actual night operating conditions and if they are approved, will so notify the Plans and Training Officer at District Headquarters. Following official approval, the applicant will receive

Exhibit N—(Continued)

from District Headquarters a certificate of authority to operate during blackout hours.

Applications will be considered only from businesses or industries engaged in production of essentials necessary for the war effort or otherwise connected with the National Defense Program.

3. Motor Vehicle Blackout.

3.01. All motor vehicles operating during the hours of blackout shall conform to the specifications as set forth in the following paragraphs.

3.02. Headlights. Two (2) approved blackout driving headlights shall be used on each motor vehicle, except on motorcycles and motor scooters, which shall have but one (1). Such lamps shall have the necessary color designs as described below, with a slot which emits white light for driving. This slot shall be covered by a metal hood. Except as shown in paragraphs 3.07 and 3.11 below, the mounting height of the headlights shall be not less than twenty-four (24) inches nor more than fifty-five (55) inches measured from road level to the bottom of the slot, and in no case higher than the top of the rim of the steering wheel. With the vehicle on level surface and carrying a capacity load, the unit shall be so adjusted that the bottom of the slot is horizontal and so aimed that the visual cut-off up the top of the beam on a vertical screen 10 feet in front of the lamp is at least four (4) inches below the bottom of the horizontal slot in the headlight and in no instances higher than fifty-one (51) inches from the road

Exhibit N—(Continued)

level. When mounted on motorcycles or motor scooters, the lamp shall be placed on the front as near the center as possible to normal line of operator's vision and far enough forward to eliminate any objectionable reflection of light from any portion of the vehicle.

The upper sector of the headlight shall be painted a deep red color of brightness of 3 and not to exceed 3.5 foot-lamberts (this light will be visible at a distance at one thousand (1,000) and not over one thousand five hundred (1,500) feet). The thickness of the red band at the center of the vertical axis shall be at least 1½ inches and not to exceed 2½ inches. Paint shall be sprayed on the lens instead of brushing, thus producing an even surface. The other portion of the headlight, with the exception of the white light slot, shall be painted black or lusterless olive drab.

White Light Slot. Except as shown in paragraphs 3.06 to 3.13 below, the white light slot for all motor vehicles shall be one-eighth (⅛) inch wide by two (2) inches long and placed at right angles to the vertical axis of the light. The bottom of the slot shall be located at the focal point of the lens which is about three-fourths (¾) inch below the center of the headlight bulb, but in no case shall it be more than one (1) inch below the center of the bulb.

Metal Shield or Hood Over Slot. The metal shield or hood over the white light slot shall be twenty (20) to twenty-eight (28) gauge sheet metal,

Exhibit N—(Continued)

extending from side to side of the headlamp and be tightly clamped to the outer rim of the headlamp. At the center of the vertical axis of light, the shield shall have an angle of from forty-five (45) to seventy (70) degrees from the vertical axis at the face of the lens, and sloped downward so that the outer edge of the shield will be at least 1¾ inches and not more than 2½ inches from the lens at the narrowest part of the shield. The outer edge of the shields shall be designed so that a lip protrudes to cover the white light slot, this lip to be one-fourth (¼) inch long, and to be of sufficient width to extend a minimum of one-half (½) inch over each end of the white light slot. The outer edge of the shield shall be folded back approximately three-eighths (⅜) inch to provide stiffness for the shield. The ends of the shield shall be closed and extended sufficiently back into the lamp to provide a clip to hold the shield in position on the headlamp. The inner face of the shield, or face on the lens side, shall be made to fit snugly to the curvature of the lens. Due to various types of headlights now in use on vehicles, the curvature of the shield shall be cut to fit each individual type of lens. The lip of the shield, when in proper position, and when the vehicle is fully loaded, shall give the adjustment prescribed in paragraph 3.02 supra. The shield shall be painted black or lusterless olive drab on the exterior and interior surfaces. Suitable mastic will be applied around the circumference of the lens at the junction of the glass with

Exhibit N—(Continued)

the retaining rim, and between the inner face of the shield and headlight lens, to properly shield any light at these points.

3.03. Combination Tail and Stop Lamp, Reflectors, and Additional Equipment. One tail, or combination tail and stop, lamp shall be securely mounted on the extreme rear of the vehicle and as near the left side as is practicable with red color as described below and aimed straight to the rear, so that it will be clearly visible to traffic approaching from the rear. Except as specified in paragraph 3.11 below, such lamps shall be mounted not less than twenty (20) inches and not more than fifty (50) inches above the road level. When mounted on motorcycles or motor scooters, this lamp shall be mounted on the rear fender. The tail light shall have a round circle one-half (½) inch in diameter of red color as prescribed for headlights in paragraph 3.02 above. The remainder of the lens shall be painted black or lusterless olive drab.

An additional tail, or combination tail and stop lamp as described hereinabove shall be securely mounted on the extreme rear of all motor vehicle combinations one hundred (100) inches and more in width as near the right side as is practicable, and at the same height and alignment as the left combination tail and stop lamp.

Two approved red reflectors may be mounted on all over-sized motor vehicles, as hereinabove de-

Exhibit N—(Continued)

scribed, on the extreme rear, and two approved amber reflectors may be mounted on the extreme front, on each side, as low on the vehicles as practicable and in no case higher than thirty (30) inches above the road level.

3.04. Instrument and Dashboard Lights, Interior, and Exterior Lights. Instrument and dashboard lights shall be extinguished unless illumination provided therefor is of low intensity and deep red in color. Except as shown in paragraph 3.08 below, all other interior lights in the vehicle shall be extinguished and rendered inoperative. All exterior lights not authorized by this General Orders shall be removed or rendered inoperative.

3.05. Testing of Lights. The intensity of brightness of red used on headlights and tail lights shall be tested by the brightness meter manufactured by the Weston Electric Company by the gauge designed and tested by the Department Engineer, by the Official Headlight Testing Stations operated by the U. S. Army Ordnance Department, or by other methods when approved by the Office of the Military Governor. The size and location of the white light slot, relative to the lip on the metal shield, shall be tested by a suitable screen to insure that the headlights conform with specifications set forth herein (if the vehicle is tested with less than capacity load, suitable allowances will be made to insure that the adjustment will meet these specifications when vehicle is loaded to capacity). This adjustment will be made by moving the entire

Exhibit N—(Continued)

headlamp. The shield will not be bent unless it is impossible to make this adjustment otherwise.

3.06. Lights for Special Vehicles. Such Vehicles as are described in paragraphs 3.07 to 3.13 below are hereby authorized to have the lights provided for in said paragraphs of this General Orders.

3.07. Trucks of Over 3-Ton Rated Capacity. All lights for trucks of over 3-ton rated capacity will conform to specifications set forth herein, except that the white light slot of the headlights may be increased to three-eighths (3/8) inch wide by three (3) inches long.

Vehicles in this category may have lights mounted at a height in excess of fifty-five (55) inches measured from the bottom of the slot to road level provided that visual cut-off up the top of the beam on a vertical screen ten (10) feet in front of the lamp is at least four (4) inches below the bottom of the horizontal slot and in no case higher than fifty-three (53) inches from road level when vehicle is carrying a capacity load.

3.08. Busses. All lights for busses will conform to specifications set forth herein except that the white light slot of the headlights may be increased to three-eighths (3/8) inch wide by three (3) inches long.

The route markers on all busses will be illuminated with a red light of low intensity.

A maximum of ten (10) interior dome lights of low intensity may be used in each bus.

Exhibit N—(Continued)

the circumference of the spotlight and be at least two (2) inches longer than the diameter of the lens of the spotlight.

3.12. Police Cars. All lights of police cars will conform strictly with specifications set forth herein, except that the white light slot of the headlights may be one-fourth (¼) inch wide by two (2) inches long.

Police cars may be equipped with a hooded white spotlight, which may be used during peaceful times when responding to emergency calls or in other emergency situations. In case of a blitz or other emergency no spotlights will be used. The hood will encircle the circumference of the spotlight and be two (2) inches longer than the diameter of the lens of the spotlight.

3.13. Road Sweepers. All lights on road sweepers will conform strictly with specifications set forth herein, except that the white light slot of the headlights may be one-fourth (¼) inch wide by three (3) inches long.

Road sweepers may be equipped with a hooded spotlight of low power for the purpose of defining the curb line of the road. In case of a blitz or other emergency situation, no spotlight will be used. The hood will encircle the circumference of the spotlight and be two (2) inches longer than the diameter of the lens of the spotlight.

3.14. Any shop, paint shop, or garage which is equipped to paint and install shields and test headlights, so that they meet specifications set forth

Exhibit N—(Continued)

herein, are authorized to perform this work. These shops may be inspected regularly by the Department Ordnance Officer, headquarters Hawaiian Department, or his duly authorized representative.

3.15. Upon installation, painting or testing of motor vehicle blackout lights, the shop performing the work will affix a gum sticker to the inside lower right corner of the windshield. The sticker will be not more than one (1) inch wide by 2½ inches long. The face of this sticker will show that the lights have been tested and adjusted. The reverse of the sticker will be filled in to indicate the date, organization, and name of the individual performing the adjustment and test.

3.16. No shop, paint shop, or garage shall install shields or paint headlights without performing the proper test and adjustment to meet specifications set forth herein, nor shall any person tamper with the lens or shields of headlights after they have been inspected and approved.

4. Traffic During Hours of Blackout.

4.01. Enemy Aliens. No enemy alien shall be present on the streets and highways, in parks, and on beaches, either on foot or in vehicles, during the hours of blackout.

4.02. Persons Other Than Enemy Aliens. Except as is hereinafter authorized, no person shall be present on the streets and highways, in parks, and on beaches either on foot or in vehicles, during the hours of blackout after 10:00 P. M.

Exhibit N—(Continued)

4.03. Certain Persons Permitted Out-of-Doors After 10:00 P. M. The following classes of persons are excepted from the restrictions of paragraph 4.02 above:

Personnel of the Armed Forces of the United States and allied nations on duty or proceeding to and from duty;

Law enforcement officers on duty or proceeding to and from duty;

Civilian personnel required to be on the streets and highways during such hours because of their employment on defense work, by public utilities, in civilian defense activities, or by the government, or while proceeding directly to and from work;

Doctors on call;

Persons holding Police passes issued since December 7, 1941;

Persons holding special passes issued and approved by the Provost Marshal, Military Police, or Civilian Police; and

Enemy aliens transported in motor vehicles during the hours of blackout by drivers of non-enemy ancestry upon written approval of the Provost Marshal.

4.04. Vehicular and Passenger Traffic During Blackout. Any person except an enemy alien may drive, or ride as a passenger in, a motor vehicle on the streets and highways during blackout hours from the commencement of the period thereof until ten o'clock P. M., but not thereafter during said blackout hours unless duly authorized pursuant

Exhibit N—(Continued)

to the General Orders of the Military Governor. Motor vehicles driven pursuant to this paragraph 4.04 during blackout hours shall conform with all other blackout regulations wtih respect to equipment and manner of operation of such motor vehicles.

4.05. Twenty Miles Speed Limit. Except as authorized by the civil or military police, no person shall operate any vehicle at a rate of speed in excess of twenty (20) miles per hour during hours of blackout.

4.06. No Parking. No person shall park any vehicle on any public thoroughfare, street, or highway, during the hours of blackout.

4.07. Removal of Keys From, and Locking Ignition of, Parked Cars. No person shall allow the keys of any motor vehicle, of which he is the owner of operator, to remain therein, during the hours of blackout, while such vehicle remains properly and lawfully unattended; nor shall any person leave any motor vehicle, of which he is the owner or operator, during the hours of blackout, without first having locked the ignition thereof if possible.

Nothing contained in paragraph 4.07 shall be construed to relieve any person of the restriction imposed by paragraph 4.06 hereof.

4.08. Taxicabs Allowed on Streets After 5:30 A. M. All taxicabs, except those owned or operated by enemy aliens, are authoribed to be operated and to be on the streets and highways of the Territory of Hawaii after 5:30 A. M. daily.

Exhibit N—(Continued)

4.09. No person shall, during the hours of blackout, violate any statute of the Territory of Hawaii, or any ordinance, resolution, by-law, regulation, or rule of any city, city and county, county, or other municipal corporation or political subdivision of the Territory of Hawaii, regulating or relating to traffic, now in force or hereinafter in force; and all such traffic violations or offenses occurring during the hours of blackout hereby are made violations or offenses of and punishable under the General Orders of the Military Governor.

5. Workers Going to Work in the Morning.

5.01. Men and women who must leave their homes before the termination of the hours of blackout in order to reach their places of employment between the hours of 7:00 and 8:00 A. M., respectively, are permitted to proceed on the streets and highways of the Territory of Hawaii in motor vehicles or on foot after 5:30 A. M. Such workers shall leave their homes as late as possible.

5.02. Between the hours of 5:30 A. M. and the termination of the hours of blackout, all blackout rules and regulations of the Military Governor shall be observed. Motor vehicles shall proceed with all caution necessary with safety, and shall comply with the maximum speed limit as prescribed by this General Orders.

5.03. No enemy alien shall be present on the streets or highways between the hours of 5:30 A. M. and the termination of the hours of blackout, unless special permission of the Provost Marshal or

Exhibit N—(Continued)

his duly authorized representative has first been secured.

5.04. Nothing contained in this Title 5 shall be construed to permit the use of light or other means of illumination during hours of blackout, except in compliance with all blackout rules and regulations of the Military Governor.

5.05. Children under the age of 16 years will not be permitted on the streets and highways between the hours of 5:30 A. M. and the termination of the hours of blackout, unless accompanied by one of their parents or some other adult person, and unless their travel is directly connected with their parents or guardians proceeding to work.

6. Personal Identification During Hours of Blackout.

6.01. All persons required to be on the streets and highways during the hours of blackout after 10:00 P. M. shall carry an identification badge, pass, or letter from their employer evidencing their right to be on the streets, and any such person who may be stopped by the civil or military police during said hours of blackout shall identify himself promptly.

7. Places of Amusement and Business.

7.01. All persons, firms, and corporations who operate and maintain places of business and amusement shall comply with all the blackout rules and regulations of the Military Governor during that period of the hours of blackout that the said places

Exhibit N—(Continued)

of business and amusement remain open and are operated.

8. Enforcement.

8.01. Enforcement by Provost Marshal. The Provost Marshal, Hawaiian Department, shall have the power to control the sufficiency and effectiveness of the blackout and shall enforce all rules, regulations, and General Orders of the Military Governor relating to, or pertaining to, blackout in the Territory of Hawaii.

8.02. Penalty for Violations. Any person, firm or corporation, who violates, refuses, fails, or neglects to comply with any of the provisions of this General Orders, or who evades or attempts to evade any of the provisions of this General Orders, upon conviction thereof, shall be punished by confinement, with or without hard labor, not to exceed one (1) year, or by a fine not to exceed one thousand dollars ($1,000.00), or by both such confinement and fine.

By order of the Military Governor of the Territory of Hawaii:

THOMAS H. GREEN
Brigadier General, A. U. S.
Executive

—

10 March 1943

GENERAL ORDERS NO. 4
Air Raid

1. Air Raid Alarm System.
2. Vehicular Traffic During Air Raid.
3. Pedestrian Traffic During Air Raid.

Exhibit N—(Continued)

4. White Fenders and Red Spot Lights.
5. Places of Public Gathering.
6. Duties and Responsibilities of Air Raid Wardens.
7. Penalty for Violations.

1. Air Raid Alarm System.

1.01. The Department Signal Officer, Headquarters Hawaiian Department, Fort Shafter, T. H., shall have the exclusive control of, and supervision over, the installation, maintenance, and operation of the air raid alarm system established for the Territory of Hawaii.

1.02. No person, other than the Department Signal Officer, or his duly authorized representative or agent, shall operate, tamper with, damage, or in any manner interfere with the operation of, the air raid alarm system established for the Territory of Hawaii.

2. Vehicular Traffic During Air Raid.

2.01. Official Vehicles. When an air raid alarm is sounded, all official vehicles will continue on their missions and will conform to the prescribed speed and traffic regulations.

2.02. Non-official Vehicles. When an air raid alarm is sounded, drivers of non-official vehicles will be governed by the regulations in the following paragraphs, which will permit the movement of such vehicles to their destinations:

If the road is clear, drive to destination but not to an airfield, the waterfront, a military or naval

Exhibit N—(Continued)

installation, or to the business district. Do not exceed the prescribed speed limits at any point.

Give the right of way immediately to all official vehicles, civilian or military.

If forced to stop, do Not jam up close to the vehicle ahead. Pull well to the right and Clear the road.

Do Not "block" a street or road intersection.

Do Not park on streets which have been designated as "No Parking" streets.

Obey all orders of the military and civilian police.

In air raid alarms during blackout hours the standard blackout headlights and tail-lights will be turned on while vehicles are in operation.

2.03. Definitions. For the purposes of this General Orders, "official vehicles" shall be defined to mean, and shall include, Army, Navy, Police Department, Fire Department, Medical Services, Civilian Defense Authorities, and Press vehicles, vehicles driven by operating and repair personnel for public utilities, and vehicles operated by members of the Armed Forces proceeding on their missions. All other vehicles are classified "non-official vehicles."

3. Pedestrian Traffic During Air Raid.

3.01. At the time of sounding of an air raid alarm all pedestrians shall seek shelter in available air raid shelters, or shall disperse to their homes, following the instructions of civil and military police. Under no circumstances shall pedestrians, other than those on official duty, proceed to the waterfront or the business district.

Exhibit N—(Continued)

4. White Fenders and Red Spot Lights.

4.01. In order to facilitate the movement of motor vehicles of public utilities, the Police Department and Fire Department, and ambulances, on the streets and highways of the Territory of Hawaii during air raids, air raid alarms, attack, invasion, or other emergencies, the lower twelve (12) inches of the left front fender of each vehicle authorized by the Military Governor or his District Representative may be painted white not to exceed a width of twelve (12) inches. Fenders painted white shall be painted on the front and the white part shall not extend to the side or top thereof for a distance greater than two (2) inches.

4.02. Ambulances and bomb disposal vehicles authorized by the Military Governor or his District Representative may be equipped with a red spot light mounted on top of the vehicle in the center near the forward edge of the top. The spot light will be shielded with a cylindrical shield which shall extend two inches beyond the face of the lens. This light will only be used when such vehicles are moving on emergency calls.

4.03. All agencies identifying their motor vehicles pursuant to paragraphs 4.01 and 4.02 above shall submit a list of such motor vehicles to the Office of the Military Governor on the Island of Oahu or the Representative of the Military Governor in other districts.

4.04. No person, firm, or corporation other than those authorized shall use the identification de-

Exhibit N—(Continued)

scribed in paragraphs 4.01 and 4.02 hereof, nor shall the provisions of this Title 4 be construed in such a manner as to include motor vehicles owned by officials or employees of said public utilities or departments.

5. Places of Public Gathering.

5.01. At the time of sounding of an air raid alarm, all persons present in theatres, auditoriums, or other places of public gathering shall vacate such places and disperse to their homes, public air raid shelters, or other shelters, pursuant to regulations prescribed in this General Orders.

6. Duties and Responsibilities of Air Raid Wardens.

6.01. The duties and responsibilities of Air Raid Wardens shall be as set forth in the following paragraphs.

6.02. Wardens are given the right to patrol the area to which they are assigned at all times. In patrolling the area (except as hereinafter provided) the warden is limited in authority to the area bounded by public vehicular streets.

6.03. Wardens may enter upon private property at any and all times for the purpose of investigating the conditions or any other conditions incidental to the proper protection of the area to which they are assigned. All such investigations shall be made with the consent of the owners or occupants of the property if possible, but if they refuse to give their consent or are absent from the premises the air raid warden may, when it is reasonably necessary to do

Exhibit N—(Continued)

so, enter thereon for the purposes hereinabove set forth; provided, however, that when any entry is made upon the premises of another without the consent of the owner or occupant thereof, such entry shall be limited to the grounds of such premises and no dwelling or other building shall be entered without such consent.

6.04. In time of acute emergency or raids, wardens shall advise the public of any areas which they may from time to time determine to be of danger to the public, until such time as proper military or police officials can be notified of the existence of such areas or dangers, and control over them can be assumed by such police or military authorities.

6.05. In the event of an attack wardens are empowered to direct all civilian pedestrians not engaged in defense activity from the streets to places of shelter.

6.06. Wardens are empowered to request the abatement of any fire hazard or condition which would contribute to the danger of the area to which they are assigned, and if such request is not complied with within a reasonable time, they shall report same to the proper authorities for such action as shall be deemed necessary by such authorities.

6.07. Wardens shall have the power, without fear of civil liability, to report any and all acts, conditions or circumstances which appear to them to be inimical to the public good.

6.08. None of the police powers relative to arrest,

Exhibit N—(Continued)

the use of force or the directing of vehicular traffic shall be exercised by a warden.

6.09. Wardens are permitted to be on the streets at any hour when their presence thereon is required to carry out their duties as wardens, giving due consideration to the area to which they are assigned and the necessities of their traveling upon the highways.

6.10. Wardens shall assist persons within their jurisdiction to obtain necessary and available requirements for proper protection which may from time to time be distributed to the public.

6.11. Nothing herein contained shall be deemed to give wardens any privileges not accorded other civilian population save and except those required in the conduct and execution of their duties and responsibilities hereinabove defined.

6.12. The duties and responsibilities hereinabove defined refer only to those activities relating to protection and defense against attacks.

6.13. The term "warden" where used herein shall include all members of the Air Raid Warden Division of the Office of Civilian Defense.

7. Penalty for Violations.

7.01. Any person, firm, or corporation who or which violates, or attempts to violate, or evades or attempts to evade, any of the provisions of this General Orders, upon conviction thereof, shall be punished by confinement, with or without hard labor, for a period not to exceed six (6) months, or

Exhibit N—(Continued)

by fine not to exceed five hundred dollars ($500.00), or by both such confinement and fine.

By order of the Military Governor of the Territory of Hawaii:

THOMAS H. GREEN
Brigadier General, A.U.S.
Executive

10 March 1943

GENERAL ORDERS NO. 5
Civilian Security

1. Evacuation Warning Order.
2. Businessmen's Military Training Corps.
3. Gas Alarms.
4. Penalty for Violations.

1. Evacuation Warning Order.

1.01. This order is issued to further the defense of the Territory of Hawaii, promote internal security, eliminate interference with troop movements and with defense maneuvers, and save civilian lives. This order will be effective forthwith upon order or call of the Military Governor in the event an emergency shall arise requiring the evacuation of the civilian population from the areas of greatest danger.

1.02. Honolulu Urban Area. The Honolulu Urban Area hereby is designated as an evacuation area on the Island of Oahu, Territory of Hawaii, and shall be that area of the City and County of Honolulu makai of and bounded by Middle Street

Exhibit N—(Continued)

from Kamehameha Highway to King Street; along same to Houghtailing Street; along same to Vineyard Street; along same to Liliha Street; along same to School Street; along same to Lusitana Street; along same to Auwaiolimu Street; along same to Pensacola Street; along same to Wilder Avenue; along same to Punahou Street; along same to Beretania Street; along same to Waialae Avenue; along same to Kapahulu Road; along same to Campbell Avenue; along same to Hayden Street; along same to Eleventh Avenue; along same to Kaimuki Avenue; along same (through Kaimuki Crater) to Twenty-Second Avenue; thence on a direct line to and along Amau Place to Oili Road; thence on a direct line through the intersection of Kealaolu Avenue and Farmers Road to Kapakahi Stream; thence along same to the sea.

1.03. Rural Oahu and Outside Islands. In rural Oahu and in the outside Islands, the evacuation areas shall be such areas as will be designated by the Evacuation Divisions of the Office of Civilian Defense, Oahu Sector Commanders and the District Commanders concerned.

1.04. All women and girls and children under the age of 15 years residing within the evacuation areas hereinbefore described and referred to should prepare to evacuate from said areas and be familiar with and ready to follow the instructions and plans of the Office of Civilian Defense concerning such evacuation. All men not otherwise engaged in essential work shall remain in such area where they

Exhibit N—(Continued)

reside or maintain their business establishments to guard against fires, and provide for protection of property. Women and girls employed in essential defense work shall remain at their posts.

1.05. All movement of traffic will be as directed by Military and Civil Police and designated civilian defense personnel under the control of the Provost Marshal.

1.06. The foregoing shall not apply in the event of air raid alarms, but only in cases of extreme emergency, upon further order of the Military Governor, of which notice will be clearly given.

2. Businessmen's Military Training Corps.

2.01. The duties and responsibilities of the Businessmen's Military Training Corps shall be as provided in the following paragraphs.

2.02. The Businessmen's Military Training Corps is a voluntary, self-governing body of citizens on the Island of Oahu, Territory of Hawaii, whose purpose is to assist the Provost Marshal in the execution of his duties whenever called upon to do so and to be ready for any service required when called upon by the Military Governor, as a trained adjunct to the military forces in times of grave emergency.

2.03. All necessary preparation and training of the Corps shall be planned and supervised by the officers of the Businessmen's Military Training Corps. The Provost Marshal, Hawaiian Department, is hereby designated as the military advisor to the Corps and will assist in its training. The

Exhibit N—(Continued)

law enforcement agencies under the Provost Marshal will likewise render such assistance as is practicable in the training of the Corps.

2.04. To the extent that it is practicable, arms, ammunition, and other equipment will be furnished by the Army. Appropriate instruction in the employment and care of such arms, ammunition, and equipment will also be supplied by the Army.

2.05. The Businessmen's Military Training Corps is authorized to wear khaki uniforms to which may be affixed the authorized shoulder patch. The insignia of officers, non-commissioned officers and members of the Corps shall be as designated by the Military Governor.

2.06. The Businessmen's Military Training Corps will not in any way assume the duties now assigned to the Military Police, the Civil Police, or to other law enforcement agencies or to Wardens, except when acting as an adjunct to the military forces of the United States in time of grave emergency, or when specifically assigned to law enforcement duty by the Provost Marshal.

3. Gas Alarms.

3.01. Gas alarms, to be given when an enemy gas attack occurs, hereby are divided into two classes: General and Local.

A General alarm shall be given only in the case of a cloud gas attack which is expected to involve a large area. Notice of a General alarm will be issued by all normal methods of communication, and

Exhibit N—(Continued)

will be directed to all localities which may be affected.

A Local alarm shall be given in the event the presence of gas is recognized in any place or area. Notice of a Local alarm shall be imparted by means of percussion sounds; such as those produced by bells, triangles, iron rails, and empty cartridge cases struck rapidly and continuously.

3.02. When a gas alarm is given all persons in the area will immediately wear the gas masks issued to them, taking care to carefully adjust them, and then proceed out of the affected area, seeking higher levels, as gas normally finds the lower level. If in an air raid shelter or dugout, all persons shall, immediately after putting on the masks, leave for higher ground. If in a building, all persons shall go to the top floors thereof. The mask shall not be removed until it is certain that gas no longer exists in the area, as even a very small amount is dangerous.

The gas mask will protect the eyes and respiratory tract of the wearer from all chemical agents which will be encountered.

3.03. Signals for sounding gas alarms have been placed throughout the Territory of Hawaii and marked to indicate their use. No person shall sound any such signal at any time, for any purpose, excepting only members of the Police Department, Air Raid Wardens, Businessmen's Training Corps, Hawaiian Territorial Reserve Guard, Teacher Gas

Exhibit N—(Continued)

Sentries, and members of the armed forces or other persons specifically authorized to do so.

4. Penalty for Violations.

4.01. Any person who violates or evades, or attempts to violate or evade, any of the provisions of this General Orders, upon conviction thereof, shall be punished by confinement, with or without hard labor, for a period not to exceed six (6) months, or by a fine not to exceed Five Hundred Dollars ($500.00), or by both such confinement and fine.

By order of the Military Governor of the Territory of Hawaii:

THOMAS H. GREEN
Brigadier General, A.U.S.
Executive

10 March 1943

GENERAL ORDERS NO. 6

Aliens

1. Definition of "Enemy Alien" and "Alien Enemy."
2. Policy towards Enemy Aliens.
3. Regulation of Conduct of Enemy Aliens.

1. Definition of "Enemy Alien" and "Alien Enemy."

1.01. The term "enemy alien" or "alien enemy," as used in this General Orders or in any other General Orders of the Military Governor, unless the use thereof in such General Orders clearly indicates otherwise, shall include, and hereby is de-

Exhibit N—(Continued)

fined to mean, all natives, citizens, denizens, or subjects of Japan, Germany Italy, Bulgaria, Hungary, Rumania, or of any other nation or government hostile to the United States, who are within the Territory of Hawaii.

2. Policy Towards Enemy Aliens.

2.01. All enemy aliens hereby are enjoined to preserve the peace towards the United States and to refrain from crime against the public safety, and from violating the laws of the United States and Territory of Hawaii, and to refrain from actual hostility or giving information, aid, or comfort to the enemies of the United States, and to comply strictly with the regulations which hereby are, or may be, from time to time promulgated by the President of the United States or the Military Governor of the Territory of Hawaii; and so long as they shall conduct themselves in accordance with law, they shall be undisturbed in the peaceful pursuit of their lives and occupations and be accorded the consideration due to all peaceful and law-abiding persons, except so far as restrictions may be necessary for their own protection and for the safety of the United States. All citizens of the United States are enjoined to preserve the peace and to treat them with all such friendliness as may be compatible with loyalty and allegiance to the United States.

2.02. Enemy aliens hereby are permitted to go about their business and visit friends and relatives throughout the day without special permits or

Exhibit N—(Continued)

passes except during the hours of blackout and as may be otherwise limited by this General Orders or special regulations.

2.03. All enemy aliens who fail to conduct themselves as so enjoined, in addition to being liable to restraint, shall be subject to all other penalties prescribed by law and these General Orders.

3. Regulation of Conduct of Enemy Aliens.

3.01. All enemy aliens within the Territory of Hawaii shall comply strictly with the regulations as set forth in the following paragraphs.

3.02. No enemy alien shall commit, aid, or abet any hostile act against the United States, or give information, aid, or comfort to its enemies.

3.03. No enemy alien within the Territory of Hawaii shall write, print, publish, utter, or otherwise make any attack or threats against the Government or Congress of the United States, or any branch thereof, or against the measures or policy of the United States, or against the person or property of any person in the military, naval, or civil service of the United States or of the Territory of Hawaii.

3.04. All enemy aliens shall carry on their person the alien registration card or certificate issued to them at the time of their registration under Section III of the Act of June 28, 1940.

3.05. No enemy alien shall change his place of residence or occupation within the Territory of Hawaii without first having obtained the approval of the Provost Marshal therefor. This requirement

Exhibit N—(Continued)

does not eliminate the necessity of complying with the provisions of Section 35 of the Act of June 28, 1940 (54 Stat. 675).

3.06. No enemy alien shall undertake an air flight or ascend into the air in any aircraft, balloon, or flying machine of any sort, whether owned governmentally, commercially, or privately, except upon written authority of the Contact Office, Office of the Assistant Chief of Staff, G-2, Headquarters Hawaiian Department.

3.07. No enemy alien shall have in his actual or constructive possession at any time or place, or use or operate, any of the following listed articles:

Firearms;

Weapons or implements of war or component parts thereof;

Ammunition;

Bombs;

Explosives or material used in the manufacture of explosives;

Short-wave radio receiving sets;

Transmitting sets;

Signal devices;

Codes or ciphers;

Cameras;

Materials and supplies used for the developing and printing of photograps;

Paper, documents or books in which there may be invisible writing; photographs, sketches, pictures, drawings, maps or graphical repre-

Exhibit N—(Continued)

sentations of any military or naval installations or equipment, of any arms, ammunition, implements of war; or devices or things used or intended to be used in the combat equipment of the land or naval forces of the United States, or of any military or naval post, camp or station;

Binoculars, field glasses, telescopes, or any other device used or designed for use for making observations at distances.

Any enemy alien having in his possession or under his control any article listed above will forthwith report the possession of such article to the nearest police station where he will receive instructions for the disposition thereof. Dealers, handlers, and brokers having quantities of such articles will submit a complete inventory thereof to such police station where they will receive instructions for the disposition thereof.

3.08. Any article of the classes of property listed above found in the possession of an enemy alien shall be subject to seizure and the possessor shall be subject to trial and punishment.

3.09. Any enemy alien who desires to travel between any of the districts designated by the Office of Civilian Defense on the Island of Kauai, Kauai District, will obtain a pass from the Regional Directors, Office of Civilian Defense, prior to such travel.

Exhibit N—(Continued)

By order of the Military Governor of the Territory of Hawaii:

THOMAS H. GREEN
Brigadier General, A.U.S.
Executive

—

10 March 1943

GENERAL ORDERS NO. 7

Military Areas

1. Purpose.
2. Executive Order No. 9066 of the President of the United States.
3. Hawaiian Department Prescribed as Military Area Pursuant to Executive Order No. 9066.
4. Honolulu Defensive Sea Area.
5. Hawaiian Maritime Control Area.
6. West Loch Area,
7. Iwilei Area.
8. Waterfront Area.
9. Protection of Waterfront Property.
10. Emergency Waterfront Charge.
11. Security Regulations for Vessels in Port.
12. Kokee Restricted Area, Kauai District.
13. Pali Road Restricted Area.
14. Penalty for Violations.

1. Purpose.

1.01. This General Orders is issued in the interests of internal security as additional protection against possible espionage and sabotage.

Exhibit N—(Continued)

2. Executive Order No. 9066 of the President of the United States.

2.01. The following Executive Order, being Executive Order No. 9066 of the President of the United States, dated February 19, 1942, is published for the information and guidance of all concerned:

Executive Order

Authorizing the Secretary of War to Prescribed Military Areas

Whereas the successful prosecution of the war requires every possible protection against espionage and against sabotage to national-defense material, national-defense premises, and national-defense utilities as defined in Section 4, Act of April 20, 1918, 40 Stat. 533, as amended by the Act of November 30, 1940, 54 Stat. 1220, and the Act of August 21, 1941, 55 Stat. 655 (U.S.C., Title 50, Sec. 104):

Now, Therefore, by virtue of the authority vested in me as President of the United States, and Commander in Chief of the Army and Navy, I hereby authorize and direct the Secretary of War, and the Military Commanders whom he may from time to time designate, whenever he or any designated Commander deems such action necessary or desirable to prescribe military areas in such places and of such extent as he or the appropriate Military Commander may determine, from which any or all persons may be excluded, and with respect to which, the right of any person to enter, remain in, or leave shall be

Exhibit N—(Continued).

subject to whatever restrictions the Secretary of War or the appropriate Military Commander may impose in his discretion. The Secretary of War is hereby authorized to provide for residents of any such area who are excluded therefrom, such transportation, food, shelter, and other accommodations as may be necessary, in the judgment of the Secretary of War or the said Military Commander, and until other arrangements are made, to accomplish the purpose of this order. The designation of military areas in any region or locality shall supersede designations of prohibited and restricted areas by the Attorney General under the Proclamations of December 7 and 8, 1941, and shall supersede the responsibility and authority of the Attorney General under the said Proclamations in respect of such prohibited and restricted areas.

I hereby further authorize and direct the Secretary of War and the said Military Commanders to take such other steps as he or the appropriate Military Commander may deem advisable to enforce compliance with the restrictions applicable to each Military area hereinabove authorized to be designated, including the use of Federal troops and other Federal Agencies, with authority to accept assistance of state and local agencies.

I hereby further authorize and direct all Executive Departments, independent establishments and other Federal Agencies, to assist the Secretary of War or the said Military Commanders in carrying out this Executive Order, including the furnishing

Exhibit N—(Continued)

of medical aid, hospitalization, food, clothing, transportation, use of land, shelter, and other supplies, equipment, utilities facilities, and services.

This order shall not be construed as modifying or limiting in any way the authority heretofore granted under Executive Order No. 8972, dated December 12, 1941, nor shall it be construed as limiting or modifying the duty and responsibility of the Federal Bureau of Investigation, with respect to the investigation of alleged acts of sabotage or the duty and responsibility of the Attorney General and the Department of Justice under the Proclamations of December 7 and 8, 1941, prescribing regulations for the conduct and control of alien enemies, except as such duty and responsibility is superseded by the designation of military areas hereunder.

FRANKLIN D. ROOSEVELT

The White House
February 19, 1942.

3. Hawaiian Department Prescribed as Military Area Pursuant to Executive Order No. 9066.

3.01. All concerned hereby are notified that Delos C. Emmons, Lieutenant General, United States Army, by virtue of the authority vested in him by the President of the United States and by the Secretary of War, and by his powers and prerogatives as the Commanding General, Hawaiian Department, and as the Military Governor of the Territory of Hawaii, and as a Military Commander

Exhibit N—(Continued)

under Executive Order No. 9066 of the President of the United States, dated February 19, 1942, deeming it necessary to do so, pursuant to an order dated October 16, 1942, did declare, designate, establish, and prescribe the Hawaiian Department, to wit:

All the islands belonging to the United States within the area between one hundred fifty (150) degrees west longitude and one hundred sixty (160) degrees east longitude, and between fifteen (15) degrees south latitude and thirty (30) degrees north latitude, a military area within the meaning of said Executive Order No. 9066.

4. Honolulu Defensive Sea Area.

4.01. The following Executive Order (No. 8987) is published for the information and guidance of all concerned:

Executive Order

Establishing Honolulu Defensive Sea Area

By virtue of the authority vested in me by section 44 of the Criminal Code as amended (U.S.C. Title 18, Sec. 96), the following-described area is hereby established and reserved, for purposes of national defense, as a naval defensive sea area, to be known as "Honolulu Defensive Sea Area";

All United States territorial waters of Honolulu Harbor, Oahu, Territory of Hawaii, its approaches and tributaries from the contour line of extreme high water as shown on the latest U.S.C. and G.S. charts to:

A line running south true from the shore at Koko Head, Oahu, along the meridian of Longitude 157°

Exhibit N—(Continued)

42 West, to the seaward limit of United States territorial waters;

A line running south true from Ahua Point Lighthouse to the seaward limit of United States territorial waters; and

A line running along the seaward limit of the United States territorial waters between the above-described bearing lines.

A vessel not proceeding under United States Naval or other United States authorized supervision shall not enter or navigate the waters of the Honolulu Defensive Sea Area except during daylight, when good visibility conditions prevail, and then only after specific permission has been obtained. Advance arrangements for entry into or navigation through or within the Honolulu Defensive Sea Area must be made, preferably at a United States Naval District Headquarters in advance of sailing, or by radio or visual communication on approaching the seaward limit of the area. If radio telegraph is used, the call NQO shall be made on a frequency of 500 kcs, and permission to enter the port shall be requested. The name of the vessel, purpose of entry, and name of the master must be given in the request. If visual communications are used, the procedure shall be essentially the same.

A vessel entering or navigating the waters of the Honolulu Defensive Sea Area does so at its own risk.

Even though permission has been obtained, it is incumbent upon a vessel entering the Honolulu De-

Exhibit N—(Continued)

fensive Sea Area to obey any further instructions received from the United States Navy, or other United States authority.

A vessel may expect supervision of its movements within the Honolulu Defensive Sea Area, either through surface craft or aircraft. Such controlling surface craft or aircraft will be identified by a prominent display of the Union Jack. The loading or unloading by vessels of oil fuel or other inflammable or explosive materials shall be under the control of the local Naval authority, who shall require such loading or unloading to be accomplished in such manner and at such times as will safeguard the other activities within the Honolulu Defensive Sea Area essential to the national defense.

These regulations are subject to amplification by the local United States Naval authority as necessary to meet local circumstances and conditions.

When a United States Maritime Control Area is established adjacent to or abutting upon the above-established adjacent defensive sea area, it shall be assumed that permission to enter, and other instructions issued by proper authority, shall apply to any one continuous passage through or within both areas.

Any master of a vessel or other person within the Honolulu Defensive Sea Area who disregards these regulations, or fails to obey an order of United States Naval authority to stop or heave to, or performs any act threatening the efficiency of mines or

Exhibit N—(Continued)

other defenses or the safety of navigation, or takes any action inimical to the interests of the United States, may be detained therein by force of arms, and shall be liable to attack by United States armed forces, and liable to prosecution as provided for in section 44 of the Criminal Code as amended (U.S.C., title 18, sec. 96).

All United States Government authorities shall place at the disposal of the Naval authorities their facilities for aiding in the enforcement of these regulations. The Governor of the Territory of Hawaii; the local municipal authorities, and the local civilian defense agencies are called upon to render the local Naval authorities all possible assistance in the enforcement of these regulations.

This order shall not be construed as modifying in any way the proclamation of the Governor of the Territory of Hawaii placing the Territory of Hawaii under martial law.

The Secretary of the Navy is charged with the publication and enforcement of these regulations.

FRANKLIN D. ROOSEVELT

The White House
December 20, 1941.

5. Hawaiian Maritime Control Area.

5.01 The following proclamation is published for the information and guidance of all concerned:

Exhibit N—(Continued)

By the President of the United States of America

A Proclamation

Whereas the United States is now at war, and the establishment of the maritime control area hereinafter described is necessary in the interests of national defense;

Now, Therefore, I, Franklin D. Roosevelt, President of the United States of America, by virtue of the authority vested in me as President of the United States, and as Commander-in-Chief of the Army and Navy of the United States, and in accordance with the principle of self-defense of the Law of Nations, do hereby proclaim and establish the following-described area as the Hawaiian Maritime Control Area, and prescribe the following regulations for the control thereof:

Hawaiian Maritime Control Area

All waters contained within the area delimited by lines connecting successively the following points:

Latitude 22° 31′ N.	Longitude 158° W.
Latitude 21° N.	Longitude 155° 30′ W.
Latitude 20° 30′ N.	Longitude 155° 30′ W.
Latitude 20° N.	Longitude 156° 30′ W.
Latitude 21° N.	Longitude 159° W.
Latitude 22° N.	Longitude 159° W.
Latitude 22° 30′ N.	Longitude 156° W.

Exhibit N—(Continued)

Regulations for the Control of Hawaiian Maritime Control Area

1. A vessel not proceeding under United States Naval or other United States authorized supervision shall not enter or navigate the waters of the Hawaiian Maritime Control Area except during daylight, when good visibility conditions prevail, and then only after specific permission has been obtained. Advance arrangements for entry into or navigation through or within the said Area must be made, preferably by application at a United States Naval District Headquarters in advance of sailing, or by radio or visual communication on approaching the seaward limits of the area. If radio telegraphy is used, the call "NQO" shall be made on a frequency of 500 kcs, and permission to enter the port requested. The name of the vessel, purpose of entry, and name of master must be given in the request. If visual communications are used, the procedure shall be essentially the same.

2. Even though permission has been obtained, it is incumbent upon a vessel entering the said Area to obey any further instructions received from the United States Navy, or other United States authority.

3. A vessel may expect supervision of its movements within the said Area, either through surface craft or aircraft. Such controlling surface craft and aircraft shall be identified by a prominent display of the Union Jack.

Exhibit N—(Continued)

4. These regulations may be supplemented by regulations of the local United States naval authority as necessary to meet local circumstances and conditions.

5. Should any vessel or person within the said area disregard these regulations or regulations issued pursuant hereto, or fail to obey an order of the United States naval authority, or perform any act threatening the efficiency of mine or other defenses, or take any action therein inimical to the defense of the United States, such vessel or person may be subjected to the force necessary to require compliance, and may be liable to detention or arrest, or penalties or forfeiture, in accordance with law, the law applicable to violations committed on the high seas being international law.

The Secretary of the Navy is charged with enforcement of these regulations.

In Witness Whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington, this 27th day of December in the year of our Lord nineteen hundred and forty-one, and of the Independence of the United States of America the one hundred and sixty-sixth.

[Seal] /s/ FRANKLIN D. ROOSEVELT

By the President:

/s/ CORDELL HULL

Secretary of State.

Exhibit N—(Continued)

6. West Loch Area.

6.01. There is hereby created and established in the interests of military necessity and public safety, a restricted military area, consisting of the general area adjacent to and immediately west of West Loch, Pearl Harbor, Island of Oahu, Territory of Hawaii, in accordance with boundary lines as now established and determined. Said area shall be evacuated of all persons except those to whom passes to return have been issued. Such evacuation shall be conducted under the supervision of the Provost Marshal, Hawaiian Department.

7. Iwilei Area.

7.01. There is hereby created and established, in the interests of military necessity and public safety, a restricted military area on the Island of Oahu, consisting of the Iwilei Area, bounded as follows:

Kapalama Drainage Canal from Kapalama Basin to Dillingham Boulevard; thence along the south side of Dillingham Boulevard to a point about 200 feet west of King Street; thence along the easterly (mauka) boundary of that portion of Oahu Railway and Land Company land which is used for railway yards, shops, offices, and station to a point on King Street about 320 feet north of Iwilei Road; thence along King Street to Iwilei Road; thence along the north side of Iwilei Road to Queen Street; thence along the west side of Queen Street to Pier 15, inclusive; thence along the harbor line in a westerly direction to the channel connecting Honolulu Harbor with Kapalama Basin; thence along said channel

Exhibit N—(Continued)

to Kapalama Basin; thence along the easterly boundary to Kapalama Basin to the Kapalama Drainage Canal.

Said area shall be evacuated of all persons except those to whom passes to return have been issued. Such evacuation shall be conducted under the supervision of the Provost Marshal, Hawaiian Department.

8. Waterfront Area.

8.01. There is hereby created and established, in the interests of military necessity and public safety, a restricted military area, consisting of the waterfront area of the City and County of Honolulu, Territory of Hawaii, described as follows:

The waterfront area of Honolulu makai of the following Described Line: Commencing at the ewa mauka corner of Ala Moana and South Streets; thence ewa on Ala Moana Street to an iron fence on the ewa side of premises occupied by the Contractors, Pacific Naval Air Bases; thence along said fence to the makai side of Punchbowl Street; thence to the makai side of Halekauwila Street; thence ewa on Halekauwila Street to the ewa side of Fort Street; thence mauka on Fort Street to the makai side of North Queen Street; thence along Queen Street to the waikiki side of Awa Street; thence along Awa Street to the mauka end of Pier 18; thence makai along ewa side of Pier 18 to Pier 19; thence ewa along mauka side of buildings of Pier 19 and across railroad spur to a point

Exhibit N—(Continued)

ten (10) feet ewa of said railroad spur; thence mauka parallel to railroad spur to makai side of pavement; thence ewa along pavement to Pier 24; thence mauka in front of Oahu Railway and Land Company to Pacific Street; thence along the makai side of Pacific Street; thence mauka across Pacific Street to Honolulu Gas Company, Ltd.; thence around the Honolulu Gas Company, Ltd.'s property; thence along the ewa side of Union Oil Company of California's plant to Hart Road; thence ewa on mauka side of Hart Road to the Kapalama Drainage Canal.

8.02. Entry into the above Restricted Area shall be limited to those individuals and vehicles properly identified and employed therein or on business pertaining to the United States, Territorial and Municipal governments, and to properly identified passengers of Inter-Island and Trans-Pacific ships. All persons regularly required to enter this area shall be furnished with a C. I. B. photographic badge and the Provost Marshal Waterfront pass or other photographic badge or pass approved by the Military Governor.

8.03. No person shall enter, be in, or remain in, said Waterfront Area or any part or portion thereof unless duly authorized to do so by the Military Governor of the Territory of Hawaii, his duly authorized agents or representatives, or by other competent authority.

Exhibit N—(Continued)

8.04. The employment of enemy aliens in the Restricted Area will be permitted only under conditions prescribed by the Provost Marshal, Hawaiian Department.

8.05. Parking of motor vehicles at any place within the Restricted Area, is prohibited, except as may be authorized by the Provost Marshal, Hawaiian Department.

8.06. The military authorities will erect such fences and barricades along the Described Line or anywhere within the Restricted Area as deemed proper for security and military necessity. Such other restrictions as shall be required for the Restricted Area shall be as designated from time to time by the Provost Marshal.

9. Protection of Waterfront Property.

9.01. Smoking by any person on or in any dock, wharf, tank farm, or warehouse located thereon in the Territory of Hawaii is prohibited, except in such places as may be designated for this purpose by the Captain of the Port.

9.02. No fire shall be built on or in any dock, wharf, tank farm, or warehouse located thereon in the Territory of Hawaii, without the written consent of the District Captain of the Post Officer or the Captain of the Port in which such dock, wharf, tank farm, or warehouse is located.

9.03. Nothing contained in this General Orders shall be construed as modifying or suspending any existing Federal or Territorial statute or any Proclamation or Executive Order of the President of the

Exhibit N—(Continued).

United States, or any General Orders of the Military Governor.

10. Emergency Waterfront Charge.

10.01 Castle & Cooke Terminals, Limited, hereby is authorized and directed to perform such duties with respect to the guarding of vessels, cargo and piers in Honolulu Harbor as it may be directed to do by the Director of Cargo and Passenger Control, Office of the Military Governor. Payment for such services as Castle & Cooke Terminals, Limited, performs pursuant to this Title 10 shall be made from the Emergency Waterfront Fund upon presentation of certified bills approved by the Director of Cargo and Passenger Control, Office of the Military Governor.

10.02. All vessels except harbor craft (including tugs and barges) based at Honolulu, berthed in Honolulu Harbor at any pier not under lease to or owned by the Federal Government, shall be charged and shall pay to the Emergency Waterfront Fund an Emergency Waterfront Charge. Effective forthwith, the Emergency Waterfront Charge shall be one cent ($0.01) per net registered ton for each half-day or fraction thereof that the ship is at the dock. The periods from Noon to Midnight and from Midnight to Noon shall each constitute a half-day.

10.03. The Board of Harbor Commissioners of the Territory of Hawaii is hereby designated as the fiscal agent of the Military Governor for the purpose of administering the Emergency Water-

Exhibit N—(Continued)

front Fund. All charges under the Emergency Waterfront Charge shall be made and collected by said Board and all receipts therefrom shall be deposited in the Bishop National Bank of Hawaii, at Honolulu, T. H., to the credit of the Emergency Waterfront Fund O.M.G. Disbursements shall be made on checks signed by the administrative officer of the Board of Harbor Commissioners and countersigned by the Finance Officer in the Office of the Military Governor.

10.04. Such funds as may be available in the Emergency Waterfront Fund shall be used to pay Castle & Cooke Terminals, Limited, for emergency patrol work and also to pay for such other expenses incidental to the guarding of vessels, cargoes, and piers in Honolulu Harbor as may be authorized and approved by the Director of Cargo and Passenger Control, Office of the Military Governor.

11. Security Regulations for Vessels in Port.

11.01. The following regulations quoted from Title 33, Chapter I, Part 6, Subpart E, approved by the President on 31 December 1942, issued pursuant to the authority contained in section 1, Title II, of the Espionage Act approved June 15, 1917, 40 Stat. 220 (U.S.C. title 50, sec. 191), as amended by the Act of November 15, 1941 (55 Stat. 763), and by virtue of the Proclamation and Executive Order issued June 27, 1940 (5 F.R. 2419), and November 1, 1941 (6 F.R. 5581), and as quoted in Port Security Order No. 1-43, 20 January 1943, respec-

Exhibit N—(Continued)

tively, are published for the information and guidance of, and compliance by, all concerned:

"Sec. 6.331. When Guards Shall Be Used: On all vessels guards shall be employed in accordance with the following schedule in addition to the crew requirements set forth under the section on manning:

(c) Fire Guards On self propelled vessels of 1000 gross tons or over when under repair a fire guard shall be maintained in each compartment or place in which there is in use portable apparatus such as for welding, burning, and riveting, or in which sparks or sufficient heat to cause combustion may be transmitted if such space or adjacent spaces contain combustible materials likely to become ignited, from the time such work is started until after it is completed.

"Sec. 6.332. How Guards Are Provided: The master, vessel owner, operator, and agent shall provide all guards required by the regulations in this subpart, except where such guards are provided by military authority.

"Sec. 6.380. Responsibility for Compliance by Crew and Others: The master, owner, operator, and agent of the vessel shall require strict compliance by the members of the crew, guards, and others with the regulations contained in this subpart and shall instruct them therein. Violations of the regulations contained in this—

Exhibit N—(Continued)

subpart shall be reported to the Captain of the Port.

"Sec. 6.381. Return to Ship in Emergency: When officers and men are ashore and a state of emergency is announced in the port, they shall endeavor to proceed with all possible speed to their ship.

"Sec. 6.382. Discussion of Ship's Business: Officers, crew members, and others shall not discuss ship's business or inform anyone of any anticipated movement of the vessel except as required in the line of duty and then only with persons having proper credentials. Ship's business shall not be discussed within the hearing of those not officially involved.

"Sec. 6.383. Possession of Binoculars and Telescopes: Binoculars and telescopes on vessels shall be in the possession of the master, officers and lookouts only.

"Sec. 6.384. Sailing Time: In no case shall a sailing time be posted or announced and every effort shall be made to keep information in relation thereto and to the future movements of the vessel secret.

"Sec. 6.385. Provision for Smoking: The master shall post a notice in a conspicuous place stating where smoking shall be and shall not be permitted aboard. In no case shall smoking be permitted:

(a) On weather decks when moored to a dock, pier, wharf, or other waterfront facility.

Exhibit N—(Continued)

(b) When loading or discharging explosives.

(c) In cargo spaces.

(d) When gas freeing ship's tanks or when loading Grade A, B or C liquid inflammable cargo in bulk, except that the master may permit smoking in lounge and mess rooms, in fire rooms when boiler fires are lighted, and in engine rooms when machinery is in operation."

11.02. The regulations set forth in this Title 11, and amendments thereto, shall be enforced by the Captains of the Port.

12. Kokee Restricted Area, Kauai District.

12.01. There is hereby created and established, in the interest of military necessity, a restricted military area consisting of the general area commonly known as the Kokee Area, on the Island of Kauai, Kauai District.

12.02. Civilians will be permitted to enter this Kokee Restricted Area and occupy summer residences therein only after having procured a pass from the Provost Marshal by applying at the Office of Civilian Affairs, Court House, Lihue, Kauai.

12.03. Passes will be issued to the owner or lessee of the property to be occupied, and to each member of the family, guests, servants, employees and to any workmen who may be engaged to perform contract labor about the premises. The name of the owner or lessee will appear on all passes issued, and he or she will be directly responsible

Exhibit N—(Continued)

for the observance of all regulations by any person issued a pass in the name of said owner or lessee.

12.04. Any violation of these regulations by the holder of a pass will subject all members of the household to the penalty of having their passes revoked.

12.05. Tradesmen and others having legitimate business in the Kokee area or in the vicinity of the restricted area may be issued passes. In the event of a violation of any regulation governing this area, the pass privilege of the tradesman or the concern whose representative was was guilty of the violation will be revoked.

12.06. The maximum speed for all vehicles, using the Kokee road North of the Belt Road junction, is 25 M.P.H.

12.07. A copy of this Title 12 shall be conspicuously posted in each occupied house in the Kokee area.

12.08. Strict compliance with all General Orders such as blackout and curfew will be observed. The use of trails and roads in the general vicinity of the CCC Camp is prohibited North and West of the boundary line between the districts of Waimea and Hanalei. The restricted area has been designated as a military reservation and is clearly marked by signs and fences.

12.09. Persons trespassing on the military reservation shall be subject to a fine of not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00), or by imprisonment for not

Exhibit N—(Continued)

more than one (1) year, or both fine and imprisonment.

13. Pali Road Restricted Area.

13.01. Pali Road Restricted Area hereby is designated and declared to be a military area and shall be that area on, adjacent to, or in the vicinity of the Pali Road on the Island of Oahu, Territory of Hawaii, from a point on the Honolulu side of said Pali Road one-quarter of a mile from the summit thereof to a point on the Kaneohe side where said Pali Road intersects Highway No. 1.

13.02. No person shall photograph, or take pictues from, on, in, or of, the Pali Road Restricted Area, or any portion thereof.

14. Penalty for Violations.

14.01. Any person who violates or evades, or attempts to violate or evade, any of the provisions of paragraphs 11.01 and 11.02, or any other provision of this General Orders, upon conviction thereof, shall be punished by confinement, with or without hard labor, for a period not to exceed one (1) year, or by a fine not to exceed One Thousand, Dollars ($1000.00), or by both such confinement and fine.

By order of the Military Governor of the Territory of Hawaii:

THOMAS H. GREEN
Brigadier General, A.U.S.
Executive

Exhibit N—(Continued)

10 March 1943

GENERAL ORDERS No. 8

Identification and Registration

1. Purpose.
2. Central Identification Bureau.
3. Identification Passes for Entry to Military Establishments.
4. Solicitors.
5. Explosives and other Dangerous Materials.
6. Obsolete Passes.
7. Notice of Change of Address.
8. Registration of Laboratories.
9. Registration of Persons with Service in Armed Forces of Foreign Governments.
10. Wearing of Khaki Clothing by Civilians.
11. Brassards (Arm Bands) for Navy and Marine Officers.
12. Office of the Military Governor Brassard (Arm Band).
13. Penalty for Violations.

1. Purpose.

1.01. This General Orders is issued in the interests of internal security as additional protection against possible espionage and sabotage.

2. Central Identification Bureau.

2.01. The establishment of the Central Identification Bureau also known as C.I.B., as a bureau of the Office of the Military Governor, hereby is confirmed.

2.02. The function of the Central Identification

Exhibit N—(Continued)

Bureau shall be the issuance of means of identification to persons who are required to have such identification in order to gain access to military and naval reservations and other areas, and for such other purposes as may be required by Orders of the Military Governor.

2.03. Any applicant desiring a C.I.B. badge or other means of identification issued by it shall prepare the application form and such other data as may be required from time to time by the Bureau and personally present and submit the same at the office of said Bureau. The employer shall assist and supervise the preparation of such application and data for employees desiring such means of identification.

2.04. Any person receiving such means of identification shall, within forty-eight hours after expiration of the period of time for which it was issued, or within forty-eight hours after termination of the employment recited in such application as the basis for issuance thereof, deliver or mail such means of identification to the Central Identification Bureau.

2.05. No person shall copy or duplicate, or attempt to copy or duplicate, any such means of identification, or any part thereof, issued by said Bureau; nor shall any person secure, or attempt to secure, or aid or abet another person in securing, or attempting to secure, such means of identification under false pretenses; nor shall any person take, carry, remove, or send, or attempt to so do, any such means of identification from the Territory

Exhibit N—(Continued)

of Hawaii except seafaring persons who have been issued Captain of the Port badges as sanctioned by the Coast Guard; nor shall any person commit, or attempt to commit, a fraudulent use of any such means of identification; nor shall any person commit, or attempt to commit, a fraudulent entry to any military or naval reservation or other restricted military or naval area by use of such means of identification.

3. Identification Passes for Entry to Military Establishments.

3.01. Effective 15 March 1943, the Central Identification Bureau will be the authorized agency to issue passes to civilian personnel for entrance to military establishments, posts, air fields, and restricted areas. Identification passes will be issued by the C.I.B. only with the recorded prior approval of the commander responsible for security of the post or other installation concerned.

3.02. Identification passes will be issued according to the provisions of the following paragraphs.

3.03. The Standard Identification Pass. The Standard Identification Pass will consist of a badge, bearing the name and photograph of the person to whom issued, his duty or occupation, the establishment or area to which entry is authorized, a recorded serial number, and the impression seal of the Central Identification Bureau.

3.04. The "Special" Identification Pass. In all cases where the standard identification pass will not suffice, either because entry to more than one establishment or area is authorized, because the scope of

Exhibit N—(Continued)

authorized activities cannot be described on the standard identification pass, or because employment is of a temporary nature and may be at varying locations, a "Special" identification pass will be issued. The "Special" pass will be similar to the standard pass in all respects, except that on the "Special" pass a red band bearing the word "Special" will be substituted for the name of the restricted areas or establisments to which entry is authorized. The "Special" pass must be accompanied by an identification card pass bearing the same serial number as the "Special" pass, setting forth the restricted areas or establishments to which entry is authorized and the scope of the bearer's activities. The card pass, as well as the "Special" badge, will be required as authority for admittance to the designated areas.

3.05. Employers desiring passes for employees will submit a list of such employees to the Commanding Officer of each military establishment or restricted area to which entry is desired, stating in each case the name of the employee, the duty performed, and the installations or area to which admittance is desired. The Commanding Officer, if he approves, will refer the request to the C.I.B. where the history of each individual will be examined. The required form of badge will be issued by the C.I.B. to those individuals whose credentials are acceptable.

3.06. Commanding Officers of military establishments may at any time revoke the authority to enter. In such event, the C.I.B. will recall the badge,

Exhibit N—(Continued)

or "Special" badge and identification card, and if necessary will issue a new identification card, omitting the post, establishment, or area to which authority to enter has been revoked.

3.07. Where duties require enlisted men to enter regularly one or more restricted areas to which the soldier's uniform and identification tags are insufficient identification Commanding Officers will secure C.I.B. passes as prescribed above for civilians.

3.08. No passes other than the service identification card will be required of commissioned officers (of the Armed Services), except where a special pass for certain installations is prescribed by the Department Commander.

4. Solicitors.

4.01. The term "solicitor," as used in this Title 4, shall include, and hereby is defined to mean, any person who, within the Territory of Hawaii, goes from house to house, or from place to place, selling, soliciting, or taking orders for, or offering to sell or take orders for, farm products, goods, wares, merchandise, or memberships, shares, certificates, or similar interests in any group, club, lodge, or society. Insurance salesmen, persons who go from house to house or place to place to deliver newspapers or milk or to collect garbage or to pick up or deliver property of any kind, and agents, employees, or representatives of privately owned public utilities, who go from house to house or place to place, regularly or occasionally during the course of their employment, shall be deemed to be solicitors within the meaning of the provisions of this Title. It shall

Exhibit N—(Continued)

be no defense in the prosecution of any person charged with a violation of any of the provisions of this General Orders that such person did not demand, solicit, accept, or receive payment or deposit of money in connection with any of the aforesaid acts or matters; nor will it be necessary for the accuser or prosecutor to allege or prove, or for the Court to find, in any such prosecution that any such person so charged was regularly engaged or employed as a solicitor, but it will be sufficient to establish that such person is a solictor within the meaning of this General Orders if such person irregularly or occasionally does any of the acts mentioned in the first two sentences of this paragraph.

4.02. No person shall act as, or do an act as, or be, a solicitor within the Territory of Hawaii after March 15, 1943, without first having obtained a solicitor's identification card from the Central Identification Bureau of the Office of the Military Governor, at Honolulu, T. H. Solicitors shall retain their solicitor's identification card on their person at all times and exhibit such card upon demand by any municipal, territorial, or federal police officer, or upon demand by any duly authorized member of the United States Naval Intelligence or Military Intelligence Division. No person other than the person to whom such solicitor's identification card duly has been issued by the said Central Identification Bureau, shall possess or use in any manner, said solicitor's identification card.

4.03. None of the provisions of Paragraphs 4.01

Exhibit N—(Continued)

and 4.02 above shall be applicable to any person under sixteen (16) years of age, nor to any municipal, territorial, or federal employees.

5. Explosives.

5.01. Persons, corporations, partnerships and other associations handling explosives on wharves or harbor installations or transporting such explosives from place to place, will obtain for each person engaged in such transportation a special identification card from the Central Identification Bureau.

5.02. The identification card will be issued to the employer for distribution to the employee and will be returned to the Central Identification Bureau upon the separation of the employee from the services of the employer to whom it was issued. Absence from employment for three consecutive days without leave of absence will be equivalent to separation. Upon separation from employment the identification card becomes null and void and the person covered by it is not thereafter authorized to use it for any purpose. If the employee is reemployed, the old identification card must be surrendered to the Central Identification Bureau and a new one must be obtained. The employer, or his agent, is charged with obtaining the identification card from any employee who is separated from the employer's services and, in the event such identification card is not recovered, a report of this fact will be submitted to the Central Identification Bu-

Exhibit N—(Continued)

reau within seven (7) days after the date of separation from service.

5.03. In the event that explosives are to be transported in vehicles on the roads and highways of the Territory of Hawaii they will be covered by tarpaulin or other similar type of covering and securely lashed. There will be placed in a conspicuous location on the front and rear of each vehicle loaded with explosives moving singly on roads and highways, a red placard or sign with the words "Danger—Explosives" painted in white letters not less than five (5) inches in height. Two or more vehicles carrying explosives and traveling in convoy will have a similar sign on the front of the leading vehicle and on the rear of the last vehicle and will be accompanied by military police escort. On the Island of Oahu, call 1211, local 97, for escorts. On other islands, call the District Provost Marshal for escorts.

5.04. In the event explosives are to be handled in or transported from, to or through a military or naval installation (restricted areas and zones included) the written approval of the Commanding Officer or the Officer in Charge of that installation must be obtained prior to any movement. In the case of the restricted waterfront area as defined and delimited by General Orders No. 7, the written approval of the Captain of the Port, Honolulu, or other officer designated by him, shall be obtained prior to any explosive being handled in or transported from, to, or through such restricted area.

Exhibit N—(Continued)

5.05. Nothing herein contained shall be deemed to limit the jurisdiction granted by statute, executive order, or regulation to any Federal agency over harbors, wharves, docks or other harbor facilities and activities therein. Any person transporting explosives shall comply fully with the Federal Explosives Act of December 26, 1941, (Public Law 381 77th Cong.) and the regulations issued pursuant thereto, and all Territorial statutes and Municipal Ordinances with reference thereto.

5.06. In addition to the above requirements of this Title 5, the following regulation shall be applicable to civilians and government agencies in the Kauai District having explosives on hand:

Commencing with the effective date of this General Orders any changes in inventories of all explosives on hand will be reported to the District Engineer for the Office of Civilian Affairs within 24 hours, showing location of explosives, quantities, types and strength.

Shipments into the County and District of Kauai will be reported by the Army Transport Service to the District Engineer upon arrival.

No explosives may be shipped out of the Island without the prior approval of the District Engineer.

The District Engineer will maintain an inventory of all explosives on the Island, will make frequent inspections of all explosive dumps, will verify reports and will check on the condition of the explosives and storage facilities.

6. Obsolete Passes.

6.01. Every person to whom a pass or an identi-

Exhibit N—(Continued)

fication badge has been issued for entry to a military or naval reservation, or a national defense project, who is not at present employed on the military or naval reservation, or national defense project, for which such pas or badge was issued, and every person whose pass to enter any such reservation or project has expired, or which has been declared cancelled or has just been recalled by the issuing authority and who now has such pass or badge in his possession, shall forthwith deliver or mail such pass or badge to the Central Identification Bureau, Honolulu, T. H.

6.02. No person who is at present not employed on the military or naval reservation, or national defense project, for which he was issued a pass or an identification badge, and no person whose pass to enter a military or naval reservation has expired, or has been declared cancelled or has been recalled by the issuing authority, shall use such obsolete pass or badge to gain entry to any such reservation or project by the use of such pass or badge.

6.03. Any person who shall lose any badge or pass mentioned in this General Orders, or whose badge or pass has been destroyed, mutilated, or defaced, shall report said loss, destruction, or mutilation in person to the Central Identification Bureau, within forty-eight (48) hours thereafter.

7. Notice of Change of Address.

7.01. The term "residence," as used in Paragraphs 7.02 and 7.03 below, shall include, and hereby is defined to mean, the house, cottage, apartment, or other place of residence or abode, being cur-

Exhibit N—(Continued)

rently and immediately used and occupied within the Territory of Hawaii by the person or persons to whom reference is made in said Paragraphs 7.02 and 7.03. It is not intended that the term "residence," as used in said Paragraphs 7.02 and 7.03 shall refer to or include a residence or domicile without the Territory of Hawaii, nor the permanent residence or domicile of such person within the Territory of Hawaii unless such permanent residence or domicile is also the place of abode being currently and immediately used and occupied within the Territory of Hawaii by such person and in which such person actually lives.

7.02. Any person within the Territory of Hawaii, who, heretofore has furnished, or hereafter shall furnish, a Personal History Declaration to the Central Identification Bureau of the Office of the Military Governor or to any office, officer, agency, agent, or department of the United States Navy or of the Army of the United States, or to any office, officer, agency, agent, or department of the United States, and who subsequent to the date hereof and after having so furnished such Personal History Declaration, shall change his or her residence within the Territory of Hawaii, shall, within seventy-two (72) hours after so changing such residence, notify the said Central Identification Bureau in writing, or in person, of the fact that such person has changed such residence and of the residence address which said person has acquired or obtained by reason of said change of residence, and, if a telephone is available to such person at the

Exhibit N—(Continued)

said residence address so acquired by such change, the number thereof.

7.03. Any person, who prior to the date hereof, shall have so furnished such a Personal History Declaration and who has heretofore changed his or her residence, and failed, neglected, or refused to furnish his or her current residence address to said Central Identification Bureau, shall not later than April 1, 1943, furnish said current residence address and telephone number, if any, in writing or in person, to said Central Identification Bureau.

8. Registration of Laboratories.

8.01. The owner or owners, director or directors, proprietor or proprietors, or other person or persons in charge of each laboratory in the Territory of Hawaii, whether such laboratory be a public or private laboratory, or a commercial, research, or educational laboratory, or a laboratory of a kind or nature other than that specifically mentioned herein, shall forthwith register such laboratory either by mail or in person, with the Office of the Military Governor of the Territory of Hawaii at Honolulu, T. H., by furnishing said office with a signed written statement containing the following pertinent information relative to such laboratory, to wit:

Name of laboratory;

Address of laboratory;

Ownership;

Type of work done in laboratory;

A list of all personnel, including the director, stating the name, age, address, birthplace, nationality, and type of work done by each in the

Exhibit N—(Continued)

laboratory. This list shall include similar information in the case of all personnel employed in, or associated with the laboratory within the past five years, and shall give their present addresses if known.

8.02. A laboratory, for the purposes of this General Orders shall be defined to mean, and shall include, any institution, establishment, business, place, or agency, engaged in chemical, bacteriological, or pathological investigation as an aid to industry, medical practice, experimentation, or teaching.

8.03. Laboratories heretofore registered under prior General Orders of the Military Governor are hereby expressly exempted from the requirement as to registration contained in the provisions of Paragraph 8.01 above.

8.04. Access will be afforded at all times to the Military Governor or his representative for inspection of all laboratories required to be registered by the provisions of this General Orders.

8.05. Any change in the status or personnel of a laboratory, or in any information furnished the Office of the Military Governor pursuant to this Title 8, shall be reported to said office in writing immediately after such change.

9. Registration of Persons With Service in Armed Forces of Foreign Governments.

9.01. Any person present within the Territory of Hawaii who has had service in the armed forces of any government or country other than the United States will forthwith report and submit, in

Exhibit N—(Continued)

triplicate, to the nearest police station, a full and complete statement as to such service on the form provided for that purpose by the Military Governor. Such police stations will immediately forward these reports to the Office of the Military Governor.

9.02. Any such person hereafter entering the Territory of Hawaii shall so report and submit such statement within five (5) days after entry.

9.03. The term "service in the armed forces" shall mean service in the Army, Navy, Police Department, Intelligence Service, or other investigative agency, or any other military or naval branch or division, and shall also include attendance in any school, college or other institution of learning, teaching or giving R.O.T.C. training or its equivalent, or any other military or naval training or preparation.

9.04. The provisions of this Title 9 shall not apply to enemy aliens who have heretofore registered such service, nor shall it apply to members of the Armed Forces of the United States.

10. Wearing of Khaki Clothing by Civilians.

10.01. The wearing by other than service personnel of the duly prescribed uniform for the United States Army, Navy, Marine Corps, and Coast Guard, or similar clothing is prohibited.

10.02. The following rules will govern the wearing of outer articles of the prescribed uniform by other than service personnel:

Khaki shirts khaki trousers, and steel helmets may be worn while on duty by members of law enforcement and other governmental

Exhibit N—(Continued)

agencies, and such civilian organizations as may be designated by the Military Governor.

The khaki shirt together with the khaki trousers may be worn by civilian guards and certain other civilians engaged on duties with Army or Navy installations which require the wearing of such clothing while on duty at their specified place of work, but such clothing may not be worn away from the place of duty or on the streets. Authority to wear khaki clothing for this purpose must be obtained from the Military Governor or his District Representative, by the officer in charge of the activity under whom the civilian is working.

All other civilians may wear either the khaki trousers or khaki shirts at any time or place, but a combination of a khaki shirt and khaki trousers or other clothing which is similar to the Army, Navy, or Marine uniforms is prohibited.

11. Brassards (Arm Bands) for Navy and Marine Officers.

11.01. The Commandant, Fourteenth Naval District, has prescribed the wearing of brassards (arm bands) by certain designated Navy and Marine officers while on official duty outside naval reservations. The brassards are described as follows:

For officers of the Fourteenth Naval District: Gold lettering "14ND" on a white flannel background, brassards measuring four inches wide by eleven inches long, lettering 3⅛ inches long by ½ inch wide.

Exhibit N—(Continued)

For officers of the Naval Transportation Service on official missions involving special identification: Blue lettering "NTS" on a white flannel background, brassard measuring four inches wide by eleven inches long, lettering 3⅛ inches long by ⅝ inch wide.

For officers of the Supply Corps on official missions: Green lettering "SD NYPH" on a white flannel background, brassard measuring four inches wide by eleven inches long, lettering 1⅝ inches long by ⅜ inch wide.

11.02. All military and civilian personnel are instructed to pass officers wearing the brassards described hereinabove with the least possible delay.

11.03. The Provost Marshal, Hawaiian Department, will be furnished by the Commandant, Fourteenth Naval District, with a list of the officers authorized to wear brassards.

12. Office of the Military Governor Brassard (Arm Band).

12.01. Officers and enlisted men of the Army of the United States, except Military Police, on duty in the Office of the Military Governor, will wear a brassard (arm band) on the left arm as follows:

Green band, three inches wide with the letters "OMG" thereon in white.

12.02. All military and civilian personnel are instructed to pass persons wearing such bands with the least possible delay.

12.03. The Executive of the Military Governor will furnish to the Provost Marshal the name of

Exhibit N—(Continued)

each person on duty in the Office of the Military Governor who is authorized to wear a brassard as described in Paragraph 12.01 above.

13. Penalty for Violations.

13.01. Any person, firm, or corporation, who or which violates, refuses, fails, or neglects to comply with any of the provisions of this General Orders, or furnishes any false information in compliance with any of the provisions of this General Orders, or who or which evades or attempts to evade any of the provisions hereof, upon conviction thereof, shall be punished by confinement with or without hard labor not to exceed five (5) years, or by a fine not to exceed Five Thousand Dollars ($5,000.00), or by both such confinement and fine.

By order of the Military Governor of the Territory of Hawaii:

THOMAS H. GREEN
Brigadier General, A.U.S.
Executive

—

10 March 1943

GENERAL ORDERS No. 9
Communications

1. Purpose.
2. Telephone.
3. Radio Regulations.
4. Radio Dealers' Regulations.
5. Signal Representative, Office of the Military Governor.
6. Use and Operation of Electrical Diathermy Type Machines.

Exhibit N—(Continued)

7. Photographic Materials Rules.
8. Cameras and Photography.
9. Carriage of Information to the Mainland.
10. Pigeons.
11. Penalty for Violation.

1. Purpose.

1.01. This General Orders is issued in the interests of internal security as additional protection against possible espionage and sabotage.

2. Telephone.

2.01. All activities of the Mutual Telephone Company except those activities associated with the Transpacific Radiotelephone Service, are placed under the control of the Department Signal Officer for the purpose of providing the maximum use of the facilities to the armed forces. The Department Signal Officer will supervise the use and disposition of all stocks of supplies and equipment on hand or received by the Mutual Telephone Company.

2.02. No action of any nature will be undertaken by any official of the Mutual Telephone Company at any time which would operate to interfere with or deprive the armed forces of the maximum use of any facility of the Mutual Telephone Company now available or which may become available, without prior approval of the Department Signal Officer.

3. Radio Regulations.

3.01. Definitions. For the purpose of this General Orders, unless the context otherwise requires, the following terms and equivalent expressions shall have the following respective meanings:

Exhibit X.—(Continued)

"Person" shall mean any individual, partnership, company, association, corporation, agency or other organized group of persons.

"Radio equipment" shall mean any parts, sets, equipment, or supplies that are designed for or are capable of being used for reception, transmission or amplification of radio waves.

"Transmitting equipment" shall mean any equipment or apparatus or parts thereof capable of being used or converted into apparatus for the transmission of radio frequency energy, including but not by way of limitation, all transmitting sets, phonograph oscillators, signal generators, or other such apparatus or equipment which it may be deemed necessary to impound for the preservation of the security of the Territory of Hawaii.

"Short-wave receiver" shall mean any radio set or equipment capable of receiving broadcasts on frequencies other than those between 550 kilocycles and 1750 kilocycles.

"Frequency modulated receiver" shall mean any radio set capable of frequency modulation reception or any frequency modulation adapter.

"Household" shall mean those individuals sharing a common dwelling, as a family.

"Broadcast band receiver" shall mean any radio receiver designed for or altered to receive only radio waves between 550 kilocycles and 1750 kilocycles including additional radio tubes possessed for and only in conjunction with such radio receiver.

"Operate" shall mean to use or to keep in such manner that it is available for use.

Exhibit N—(Continued)

"Possess" shall mean belonging to or in the possession, custody, or control of.

"Governmental Agency" shall mean any authorized Army, Navy, Federal, Territorial or City agency.

"Dealer" shall mean any person other than the ultimate consumer engaged in the importation, purchase, sale, loan, construction, or repair of radio equipment.

"Signal Representative" shall mean the Signal Representative, Officer of the Military Governor, as designated in this General Orders.

3.02. No enemy alien or household of which an enemy alien is a member shall possess or operate any radio equipment other than a broadcast band receiver.

3.03. No person shall operate a short-wave receiver or frequency modulated receiver in such manner that the reception is accessible directly or indirectly to any enemy alien, nor allow or permit an enemy alien to operate a short-wave receiver or frequency modulated receiver.

3.04. No person except governmental agencies and licensed dealers, shall possess any transmitting equipment unless such transmitting equipment shall be registered with the Signal Representative and authorization for such possession granted not later than five (5) days from the date of this General Orders, except that persons who have already registered with the Signal Representative and have secured his authorization for possession need not register nor secure such authorization again.

Exhibit X—(Continued)

3.05. No person except governmental agencies and licensed dealers shall possess any frequency modulated receiver.

3.06. Short-wave and frequency modulated receivers, the possession of which is prohibited, shall be altered by the United States Army Signal Corps.

3.07. All radio equipment, the possession of which is prohibited, shall be delivered to any Police Station for custody.

3.08. Application for authorization of possession of transmitting equipment will be made to the Signal Representative on Form S/R-108, supplied by him.

3.09. On the Island of Oahu all correspondence, applications, reports, or appeals in connection with Paragraphs 3.01 to 3.08 above will be submitted directly to the office of the Signal Representative, Komatsuya Hotel, 491 North King Street, Honolulu, T. H. On all other islands it will be submitted through the Service Command of that island.

4. Radio Dealers' Regulations.

4.01. Definitions. For the purpose of this General Orders, unless the context otherwise requires, the following terms and equivalent expressions shall have the following respective meanings:

"Class 'A' controlled item" shall mean any item of radio equipment classified as a class "A" controlled item by the Military Governor.

"Class 'B' controlled item" shall mean any item of radio equipment classified as a class "B" controlled item by the Military Governor.

"Deal in" shall mean any importation, purchase,

Exhibit N—(Continued)

sale, loan, repair or other transaction or disposition.

All definitions given in Paragraph 3.01 of this General Orders shall apply equally to the following paragraphs.

4.02. No person shall deal in radio equipment unless licensed by the Signal Representative upon application as provided herein made not later than five (5) days from the date of this General Orders, except that persons who have secured the prescribed license from the Signal Representative prior to the date of this General Orders need not secure such license again.

4.03. No class "A" controlled items may be sold except upon presentation of a purchase permit issued by the Signal Representative.

4.04. No person shall purchase at any one time any class "B" controlled item in excess of the limit stated herein, unless upon presentation of a purchase permit issued by the Signal Representative. The amount may be limited by number, by replacement, or both. No sales or purchases in excess of previous normal sales shall be made.

4.05. No person except a licensed repairman shall repair, alter, modify or tamper with any radio, or remove or mutilate any seal attached to any radio which has been altered by the Signal Corps under the provisions of any General Orders of the Military Governor.

4.06. No sales of radio supplies or equipment shall be made to any person without presentation of a Territorial Identification Certificate, or military or naval identification card or tag showing their

Exhibit X—(Continued)

non-enemy alien citizenship status. No sales of radio equipment, except receiving tubes, shall be made to any enemy alien except upon presentation of a purchase permit issued by the Signal Representative.

4.07. The provisions of Paragraph 4.04 of this General Orders shall not apply to purchases and sales of authorized purchasing officers of governmental agencies.

4.08. Individuals, not enemy aliens, making purchases or sales with licensed dealers or other persons not enemy aliens shall be excepted from the prohibitions of Paragraph 4.02 of this General Orders.

4.09. Persons desiring to purchase any class "A" controlled item or any class "B" controlled item in excess of the limitation may obtain a purchase permit from the Signal Representative authorizing such a purchase.

4.10. Upon designation of a class "A" controlled item all dealers shall make an inventory of all such items they possess or which they shall receive subsequent to such classification. This inventory will be submitted to the Signal Representative within three (3) days of such classification.

4.11. In the purchase of class "B" items controlled by "replacement" it shall be necessary for the person purchasing such items to turn in to the dealer an equal unserviceable item before sale of a new item shall be made.

4.12. All radio equipment which shall be received

Exhibit N—(Continued)

by dealers in accordance with Paragraph 4.11 above, shall be reported monthly to the Signal Representative who shall make disposal commensurate with the salvage value of the equipment.

4.13. Licensed dealers who shall make repairs on altered radio sets shall do so in accordance with instructions issued by the Signal Representative. A report of each altered set repaired will be made within five (5) days of completion of repairs on Form S/R-106, which may be obtained from the Signal Representative.

4.14. The following items are designated as class "A" controlled items:

Amplifiers
Audio Oscillators
Frequency Modulated Adapters
Frequency Modulated Receivers
Phonograph Oscillators
Signal Generators
Transmitters

4.15. The following items are designated as class "B" controlled items: Items limited in sale by number are designated by a figure and items limited in sale by replacement are indicated by "R":

Chokes	—R
Coils	—R
Condensors	—R
Insulators	—R
Radio Receivers	1
Radio Tubes (all types)	—R
Transformers (all types)	—R

Exhibit N—(Continued)

4.16. Application for license will be submitted on Form S/R-101.

4.17. Purchase permits will be obtained on the Island of Oahu from the office of the Signal Representative, Komatsuya Hotel, 491 North King Street, Honolulu, T. H. On all other islands purchase permits will be obtained from the Service Command of that island.

4.18. All correspondence will be submitted in accordance with Paragraph 3.09 of this General Orders.

5. Signal Representative, Office of the Military Governor.

5.01. The Department Signal Officer, Headquarters Hawaiian Department, is designated as Signal Representative, Office of the Military Governor. The Department Signal Officer may designate Assistant Signal Representatives to whom he may delegate the powers granted herein in such degree as he may deem necessary.

6. Use and Operation of Electrical Diathermy Type Machines.

6.01. No person, firm or corporation shall use or operate, or cause to be used or operated, any electrical diathermy type machine, unless such person, firm, or corporation first secures a license issued by the Military Governor permitting such use or operation.

6.02. Any person, firm, or corporation, who owns, operates, or has custody of any electrical diathermy type machine on the Island of Oahu will

Exhibit N—(Continued)

cause the same to be registered immediately at the Signal Representative's Office located at the Komatsuya Hotel, 491 North King Street. Any person, firm, or corporation who owns, operates, or has custody of any electrical diathermy type machine on any of the other Islands in the Territory of Hawaii, will immediately cause the same to be registered with the District Commander of the island upon which it is located. The provisions of this Paragraph 6.02 shall not apply to any person, firm, or corporation who has heretofore registered such machine pursuant to prior General Orders of the Military Governor.

6.03. A Board of Officers, consisting of a Signal Officer and a Medical Officer is hereby authorized to grant licenses for the use and operation of electrical diathermy type machines in accordance with such rules and regulations as they may prescribe. Licenses heretofore issued by said board under prior registrations hereby are ratified and confirmed, and such licenses hereby are deemed to authorize the use and operation of such electrical diathermy type machines on the same basis, and subject to the same rules and regulations, as though such licenses had been issued under the provisions of this General Orders.

6.04. Any diathermy type machine for which a license to operate is not issued shall be impounded by the Signal Representative, and a receipt therefor will be issued to the owner thereof, if known, or to the person from whom possession thereof is taken.

6.05. The transfer, sale, or other disposition of

Exhibit N.—(Continued)

any electrical diathermy type machine is prohibited unless written consent is obtained from the Military Governor. Such consent may be obtained at the office of the Signal Representative.

6.06. No electrical diathermy type machine shall be imported into the Territory of Hawaii without the written consent of the Military Governor.

7. Photographic Materials Rules.

7.01. The sale or other disposition of photographic supplies or equipment to any consignee in abnormal or excessive quantities by any wholesale dealer or importer from stocks on hand or to be received which would operate to deprive the use thereof, or otherwise interfere with the supply of, such supplies or equipment to the military or naval authorities is prohibited.

7.02. Prior to delivery to any consignee by any wholesale dealer or importer of photographic supplies or equipment of quantities from stocks on hand or to be received which are abnormal or in excess of amounts normally disposed of, such dealer or importer shall secure a clearance permit from the Signal Representative, Office of the Military Governor, authorizing such sale or disposition.

8. Cameras and Photography.

8.01. No person other than a person first duly authorized to do so by competent military or naval authorities shall use any camera on any beach in the Territory of Hawaii or use any camera while in, on, or about any airplane, boat, or ship, in waters or air within the Territory of Hawaii or encompassing the said area.

8.02. No person other than a person first duly

Exhibit N—(Continued)

authorized to do so by competent military or naval authorities shall photograph or take pictures from, in, on, or of, any military or naval reservation, post, arsenal, proving ground, range, camp, fort, yard, station, district, or restricted military or naval area, or any portion thereof; any shoreline within the Territory of Hawaii; or any military or naval installation, equipment, aircraft, weapons, ammunition, vehicles, ships, vessels, instruments, engines, manufacturing machinery, tools, devices, or any other equipment whatsoever in the possession or use of the Army or Navy, or in the course of experimentation, development, or manufacture, for delivery to and use by the Army or Navy.

9. Carriage of Information to the Mainland.

9.01. No person shall carry to the mainland, or elsewhere for transportation to the mainland, by clipper, ship, or otherwise, any written or printed matter whatsoever, or any photographs, sketches, or drawings, which have not been censored and so marked by a duly authorized censor.

9.02. No person shall send or deliver to another person any written or printed matter whatsoever, or any photographs, sketches, or drawings, for the purpose of having such other person carry such matter to the mainland to avoid censorship.

9.03. No person shall evade, or attempt to evade, censorship by indicating on any envelope, or other container, that the matter contained therein has been censored by a duly authorized censor, or by the re-use of censor labels or by the use of envelopes

Exhibit N—(Continued)

or other containers upon which a censor's stamp, or other means indicating censorship, has been used; or to attempt in any other manner or by any other means to evade the local censorship requirements.

10. Pigeons.

10.01. No person shall without the express written permission of the Military Governor transport, carry, or deliver any carrier or homing pigeon, or any other pigeon or bird having the characteristic and ability to carry and transmit a message, code, or writing, from one place to another within the Territory of Hawaii for the purpose of permitting it, or causing it, to fly.

10.02. No person shall send or transmit any message, writing, or code by means of such birds as are described in Paragraph 10.01 above within the Territory of Hawaii.

10.03. The provisions of Paragraph 10.01 and 10.02 above shall not apply to the armed forces of the United States or other governmental units thereof.

11. Penalty for Violations.

11.01. Any person, firm, or corporation who or which violates or evades, or attempts to violate or evade, any of the provisions of this General Orders, shall, upon conviction thereof, be punished by confinement, with or without hard labor, for a period not to exceed five (5) years, or by a fine not to exceed Five Thousand Dollars ($5,000.00), or by both such confinement and fine.

Exhibit N—(Continued)

By order of the Military Governor of the Territory of Hawaii:

THOMAS H. GREEN
Brigadier General, A.U.S.
Executive.

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10 March 1943

GENERAL ORDERS No. 10

Labor

1. Policy.
2. Registration.
3. Employment.
4. Wages.
5. Hours of Work and Overtime.
6. Use of Labor.
7. Appeal Agency.
8. Child Labor.

1. Policy.

1.01. The following policies are announced for the information and guidance of employers employing the services of (a) employees of the United States under the War Department or the Navy Department; (b) workers employed on construction and other projects under the War Department or the Navy Department; (c) stevedores and other workers employed on docks and dock facilities; and (d) employees of public utilities. The same policies shall be equally applicable to employees of the above-mentioned employing agencies.

2. Registration.

2.01. Any person, now or hereafter employed by

Exhibit N—(Continued)

any of the employers to whom reference is made in Paragraph 1.01, and who ceases to be so employed, shall, within two (2) days after ceasing to be so employed, register or re-register with the nearest office of the United States Employment Service.

2.02. Every employer described in Paragraph 1.01 shall notify the nearest office of the United States Employment Service on Form USES-(H)1, prescribed by the United States Employment Service, of any employee added to such employer's payroll and on Form USES-(H)2, prescribed by the United States Employment Service, of any employee dropped from such employer's payroll, within two (2) days thereafter.

2.03. Any person, firm, or corporation who violates, refuses, fails or neglects to comply with any of the provisions of Paragraphs 2.01 and 2.02 above, upon conviction thereof, shall be fined not more than One Thousand Dollars ($1,000.00), or be imprisoned for not more than one (1) year, or both.

3. Employment.

3.01. Employers described in Paragraph 1.01 may maintain their own labor recruiting facilities.

3.02. The United States Employment Service hereby is designated as the central employment agency for the distribution of civilian labor hereby required to register, and shall allocate labor in the fulfillment of employers' requisitions in accordance with priorities established by the Office of the Military Governor.

3.03. No employer described in Paragraph 1.01

Exhibit N—(Continued)

shall employ or offer to employ an individual formerly, now, or hereafter in the employment of other such employers, unless and until such individual shall have presented to the employing agency a bona fide release without prejudice, on Form USES-(H)2, from his last previous employer or from the Director of Labor Control, and evidence of registration on Form USES-350, or Form USES-506.

3.04. Any individual, who is, has been, or hereafter shall be, employed by any employer described in Paragraph 1.01, who presents himself to any other such agency and secures or attempts to secure employment without having a bona fide release without prejudice from his last previous employer, or from the Director of Labor Control, or in any way misrepresents his employment status with regard to such release, shall, upon conviction, be fined not more than two hundred dollars ($200.00), or be imprisoned for not more than two (2) months, or both.

3.05. Any employer or employer's agent who shall cause any individual to be employed in contravention of Paragraph 3.03 hereof, shall, upon conviction, be fined not more than two hundred dollars ($200.00), or be imprisoned for not more than two (2) months, or both.

4. Wages.

4.01. Revised Wage Schedule No. 9, dated 3 May 1942 and effective at the beginning of the first payroll period after 3 May 1942, hereby is designated as the standard wage scale for workers engaged in work on construction and other projects under the

Exhibit N—(Continued)

War Department, or the Navy Department. No person seeking work or employed on construction or other projects under the War Department or the Navy Department, shall be employed at a rate less than, or in excess of the standard rate for the job as listed in Wage Schedule No. 9, and as same may be revised from time to time, as approved by the Military Governor.

4.02. Federal agencies under the War Department or the Navy Department shall continue their regularly established wage schedules.

5. Hours of Work and Overtime.

5.01. Normal work week for employees on construction and other projects under the War Department or the Navy Department shall be six (6) days of eight (8) hours each. The maximum number of hours worked in any seven (7) consecutive days shall not exceed fifty-six (56), except in cases of emergency and with the approval of the Chief of Military or Naval Service concerned.

5.02. Normal work week for employees of the United States under the War Department or Navy Department shall conform to applicable Federal regulations.

5.03. Employees on construction and other projects under the War Department or the Navy Department shall be paid overtime at the rate of one and one-half the regular rate for overtime in excess of forty-four (44) hours per week, or in excess of eight (8) hours in any one day. Double the regular rate will be paid for work performed on the seventh consecutive work day. One and one-half the

Exhibit N—(Continued)

regular rate will be paid for work performed on any of the following days only: New Year's Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day and Memorial Day.

5.04. Paragraph 5.03 above shall not apply to employees who are in a supervisory capacity on a monthly salary basis.

5.05. Employees of the United States under the War Department and the Navy Department shall be paid overtime in accordance with applicable Federal regulations.

5.06. For employees engaged on construction and other projects under the War Department and the Navy Department, work shall be so scheduled that all employees shall receive one (1) day off in seven (7). Sunday work per se shall not be considered overtime, and no overtime shall be paid for Sunday except when it is worked consecutively in excess of six (6) days.

5.07. The provisions of any contract between individual employees, labor unions, and employers engaged on construction and other projects under the War Department or the Navy Department, in conflict with the provisions of this General Orders hereby are suspended.

6. Use of Labor.

6.01. Terms of labor contracts between individuals and employers engaged on construction and other projects under the War Department or the Navy Department which restrict or specify the nature of work to be performed, hereby are suspended.

Exhibit N—(Continued)

6.02. Any person now or hereafter employed by any employer described in Paragraph 1.01 hereof shall report regularly to the job to which he is ordered by said employer.

6.03. Employers and employers' agents described in Paragraph 1.01 are directed to refrain from discriminatory practices toward employees with regard to releases or other matters relating to termination of employment.

6.04. No employer or employer's agent shall fail or refuse to abide by the decisions of the Director of Labor Control on any matters within the meaning of Paragraph 6.03.

6.05. Any person, firm or corporation who or which violates, refuses, fails, or neglects to comply with any of the provisions of Paragraphs 6.01 to 6.04 inclusive, or who or which evades or attempts to evade any of the provisions of said Paragraphs 6.01 to 6.04, inclusive, upon conviction thereof, if a natural person, shall be punished by confinement, with or without hard labor, not to exceed two (2) months, or by a fine not to exceed two hundred dollars ($200.00), or by both such confinement and fine, or, if a corporation or other than a natural person, by a fine not to exceed two hundred dollars ($200.00).

7. Appeal Agency.

7.01. Persons discharged with prejudice from employment with employers mentioned in Paragraph 1.01 hereof, may appeal their cases to the Appeal Agency, Office of the Director of Labor

Exhibit N—(Continued)

Control, for decision as to whether or not they may be allowed to continue work with another employer.

7.02. The Director of Labor Control, Office of the Military Governor, hereby is designated as the Appeal Agency for persons discharged with prejudice by employers described in Paragraph 1.01. Any individual not satisfied with the decision of the Appeal Agency may appeal his case to the Labor Control Board of the Military Governor.

8. Child Labor.

8.01. Employers described in Paragraph 1.01 shall comply with the provisions of Section 18 of Chapter 259-B of the Revised Laws of Hawaii 1935, as enacted by Act 237 of the Session Laws of Hawaii 1939, as amended by Act 319, Session Laws of Hawaii, Regular Session 1941.

By order of the Military Governor of the Territory of Hawaii:

THOMAS H. GREEN
Brigadier General, A.U.S.
Executive

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10 March 1943

GENERAL ORDERS No. 11

Military Property

1. Purpose.
2. Military Property Comptroller.
3. Internee and Evacuee Property Coordinator.
4. Japanese Motion Picture Film.
5. Firearms and Weapons.

Exhibit N—(Continued)

6. Pyrotechnics.
7. Penalty for Violations.

1. Purpose.

1.01. This General Orders is issued in the interests of internal security as additional protection against possible espionage and sabotage.

2. Military Property Comptroller.

2.01. There is hereby created the office of Military Property Comptroller, to operate as an agency of the Office of the Military Governor.

2.02. All civilian and military components, except Provost Courts and Military Commissions, which have taken possession of, commandeered, confiscated, or otherwise received or shall hereafter take possession of, commandeer, confiscate or otherwise receive property of any kind or nature, either by authority of the General Orders issued by the Office of the Military Governor or otherwise, shall give receipt therefor in the following form:

.....

(Issuing Agency)
Honolulu, T. H.

No.....
Date.....

This certifies that the undersigned has received from .....
(Name of Individual) (Address)
the following articles which were surrendered in accordance with military Orders:

.....

(Signature of Agent Receiving)

Exhibit N—(Continued)

2.03. The receipt shall contain adequate description of each item of property it covers, be made in duplicate, numbered, dated and signed by the Receiving Agent. The original of the receipt shall be issued to the owner of the property described thereon or the person from whom the property was received; the duplicate of the receipt shall contain the following additional statement which shall be signed by the owner or person surrendering the property:

"I hereby certify that the above is a complete list of articles which I have surrendered to the Agency indicated on this date."

.....

(Signature of Owner)

2.04. Each civilian or military component which has received or shall receive property as in Paragraph 2.02 above, shall prepare in triplicate a list of all such property showing each item received and the number of the receipt issued therefor. One copy of such list shall be delivered to the Military Depository having or to have actual possession of the property along with the property or as soon as possible thereafter if the property has already been delivered. One certified copy of such list shall be delivered by the Military Depository together with the duplicates of all receipts issued by the Agency concerned to the Military Property Comptroller. The Military Property Comptroller shall return all duplicate receipts to the Military Depository having actual possession of the property. Each item of property shall have attached thereto a tag or

Exhibit N—(Continued)

other identification mark showing the name of the owner and the number of the receipt issued therefor.

2.05. Receipts shall be issued and lists made for all property taken since 7 December 1941. Where the owner is not known, such fact shall be certified by a Responsible Authority of the issuing Agency on the original and duplicate of the receipt. Every effort shall be made by Agencies receiving property in the first instance to locate the owner thereof and obtain his verification.

2.06. After the property has been properly tagged, the duplicates of the receipts representing property in possession of each Military Depository shall be filed in numerical order and held by it. Each such Military Depository shall prepare and keep on file a complete inventory of all alien property held by it, in addition to the above mentioned list, and shall note on said inventory its estimate of the present value of each item thereon and the estimate of a qualified appraiser if available.

2.07. It is the purpose of this procedure to establish accountability so that there will be available complete records for the settlement of all claims in connection with property so taken, confiscated, commandeered, or otherwise received.

3. Internee and Evacuee Property Coordinator.

3.01. There is hereby established an Internee and Evacuee Property Coordinator of this office with offices in the Immigration Station, Honolulu, T. H., to administer the policy of the Military Governor in regard to the security and settlement of property

Exhibit N—(Continued)

belonging to persons interned, evacuated or otherwise separated from their propery by military order.

3.02. All plans for action whereby civilians are removed or separated from their property by military order will be cleared with the Property Coordinator before action is taken.

3.03. In all instances of separation or removal of civilians from their real or personal property by military order, where reasonable property settlements cannot be immediately accomplished, or where it is felt that extraordinary loss will result from internment or evacuation, or where attempts are being made to exploit the fact of internment or evacuation, the Property Coordinator will be notified by any person or persons having an interest in such property.

3.04. The intgnee and Evacuee Property Coordinator and his assistants are agents of the Military Governor only and regardless of certain administrative assistance provided by this office, the Property Coordinator and his assistants will not be held agents of, nor responsible to, any person separated or removed from his property by military order.

4. Japanese Motion Picture Film.

4.01. Definitions: As used in this order, the term "Japanese motion picture film" shall include the following:

Any motion picture film made, manufactured or produced in Japan.

Any motion picture film made, manufactured or produced under Japanese control; and

Exhibit N—(Continued)

Any motion picture film having titles or sound track in the Japanese language.

4.02. The Department Signal Officer, Headquarters Hawaiian Department, Fort Shafter, T. H., is hereby designated and directed to regulate and control the handling, custody, use and disposition of all Japanese motion picture film in the Territory of Hawaii, and shall have full power and authority to require the storage or destruction of any such film as he may deem necessary or advisable in the interests of military necessity.

4.03. Any person, firm, corporation or association having in possession any Japanese motion picture film shall forthwith file a descriptive report listing such film, giving such information as may be required. Such report shall be filed with said Department Signal Officer or his representatives. Such report need not be filed where a similar report has been submitted as required by prior Orders of the Military Governor.

4.04. Unless otherwise provided for by special agreement with the owner thereof, the procedure for receipts set forth in paragraphs 2.01 through 2.07 of this General Orders shall be followed for all Japanese motion picture film taken in by the Department Signal Officer.

5. Firearms and Weapons.

5.01. Firearms, ammunition, explosives and weapons in the possession of persons of Japanese ancestry, naturalized American citizens who were citizens of Germany or Italy, and American citizens

Exhibit N—(Continued)

whose parents were German or Italian citizens, will be turned in to the nearest police station immediately.

6. Pyrotechnics.

6.01. The possession or use by any person, firm, corporation, or association, of fireworks, roman candles, flares, torpedoes, pyrotechnics, or powder operated signalling devices of any kind, is hereby prohibited except as authorized by the Provost Marshal.

7. Penalty for Violations.

7.01. Any person, firm, or corporation who or which violates or evades, or attempts to violate or evade, any of the provisions of this General Orders, shall upon conviction thereof, be punished by confinement, with or without hard labor, for a period not to exceed one (1) year, or by a fine not to exceed One Thousand Dollars ($1,000.00), or by both such confinement and fine.

By order of the Military Governor of the Territory of Hawaii:

THOMAS H. GREEN
Brigadier General, A.U.S.
Executive

10 March 1943

GENERAL ORDERS No. 12
Travel

1. Purpose.
2. Travel Control Bureau.
3. Priorities for Air Travel.
4. Enemy Aliens.

Exhibit N—(Continued)

5. Applications for Air Travel.
6. Military Aircraft—Quarantine Procedure.

1. Purpose.

1.01. This General Orders is issued in the interests of internal security as additional protection against possible espionage and sabotage.

2. Travel Control Bureau.

2.01. For the purpose of carrying out the provisions of Presidential Proclamations and Executive Orders; and the provisions of this General Orders, with respect to inter-island travel by enemy aliens, and for the purpose of controlling and regulating inter-island travel by air with a view to conservation of facilities for necessary and important traffic, a Travel Control Bureau hereby is established in each District.

2.02. The Travel Control Bureau in the City and County of Honolulu will function as a section of the Contact Office, Office of the Assistant Chief of Staff, G-2, Headquarters Hawaiian Department, and in each of the other Districts the Bureau will be under the control of the District Commander thereof.

On the Island of Kauai the Office of Military Intelligence shall function as the Travel Control Bureau, as designated by the Commanding General, Kauai District.

2.03. An officer from the Contact Office, Office of the Assistant Chief of Staff, G-2, Headquarters Hawaiian Department, will be detailed to the office of the Hawaiian Airlines, Limited, Honolulu, T.

Exhibit N—(Continued)

H., for the purpose of examining applications for such travel from the Island of Oahu.

On the Island of Kauai a representative from the Office of the Military Governor, Kauai Service Command, will be detailed to the Office of Kauai Terminals, Port Allen, Kauai, T. H., to examine applications for travel originating in the Kauai District.

The Commanding General, of each of the other military districts of the Territory, or officer designated by him, will examine applications for travel originating in their respective districts.

3. Priorities for Air Travel.

3.01. Transportation priorities shall be provided in the following order:

Military personnel (Army, Navy, Marine Corps and Coast Guard) travelling under official orders;

Army and Navy equipment, ammunition, supplies, and materials essential to the war effort ordered for air movement;

Personnel of government departments and agencies and personnel whose activities are essential to the war effort, other than military personnel, travelling on official business which is necessary to the successful prosecution of the war effort;

Persons other than those mentioned above travelling on business;

Other persons.

3.02. Clearing of space for passengers or cargo of higher priority classifications may require displacement of passengers in the last three classifications listed above.

Exhibit N—(Continued)

4. Enemy Aliens.

4.01. No enemy alien will be allowed to travel on any airplane, Governmental or commercial, except in cases of extreme emergency when such travel may be authorized by the Travel Control Bureau after proper precautions and safeguards have been taken. "Extreme emergency" is limited to persons dangerously ill or in need of medical treatment not available in their immediate location. When possible, such persons will be accompanied by a trusted physician, nurse, or attendant. In any event, when the travel of an enemy alien is allowed, the crew of the airplane will be so advised in order that they may be able to keep the passenger under close surveillance at all times.

5. Applications for Air Travel.

5.01. All persons requiring air transportation will report in person at the local office of the transportation company or other designated place and fill out the required application form. The travel control officer will pass on each application and grant the priority authorized. Tickets may be sold only after the application has been approved by the travel control officer. The office from which it is proposed to purchase transportation should be contacted as soon as possible.

5.02. All persons desiring to travel by airplane between the islands in the Territory of Hawaii must show reason and necessity for such travel and establish proof of their identity in submitting their application. Proof of citizenship must be fur-

Exhibit N—(Continued)

nished to the satisfaction of the travel control officer.

5.03. The application for travel will be submitted on the form prescribed by the Military Governor. The application will be made in quadruplicate. The following disposition of the application will be made:

The original—returned to applicant. If approved, it will be surrendered to the carrier at the time passage is purchased.

The duplicate—sent to the Contact Office, Office of the Assistant Chief of Staff, G-2, Headquarters Hawaiian Department, 214 Dillingham Building, Honolulu, T. H., at the close of each day.

The triplicate—sent to G-2, Office of the Commanding General of the District to which travel is to be made.

The quadruplicate—retained in office of the Travel Control Bureau for record.

5.04. All passengers travelling on priority will have their tickets stamped with the class of "Priority" at the time the ticket is purchased to insure proper handling at stopovers or return from other Districts.

5.05. Baggage and persons will be searched only when it is deemed advisable to make such search.

5.06. No written or printed matter in any language other than English will be taken aboard any commercial aircraft without prior approval by local Military Intelligence officials.

5.07. No maps, charts, or blueprints will be transported except by authorized persons.

Exhibit N—(Continued)

5.08. No photographs or negatives showing any of the beaches, shoreline, panoramic views from a high point, or military or naval installations will be transported. Under no circumstances will any (except official) undeveloped film be transported.

6. Military Aircraft—Quarantine Procedure.

6.01. The Local Director of the United States Public Health Service and the Plant Quarantine Inspector of the Department of Agriculture are relieved of their respective duties and responsibilities concerning disinsectization and plant inspection of military aircraft arriving at the Hawaiian Islands.

6.02. Two Medical Officers, a Quarantine Officer and an Assistant Quarantine Officer, designated by name by the Commanding General, Hawaiian Department, hereby are designated as Quarantine Officers for the quarantine inspection of military aircraft arriving from outside the Hawaiian Islands to include disinsectization and plant and animal quarantine inspection of these aircraft.

6.03. The Local Director of United States Public Health Service and the Plant Quarantine Inspector are designated as consultants to the Surgeon, Hickam Field, for these procedures.

By order of the Military Governor of the Territory of Hawaii:

THOMAS H. GREEN
Brigadier General, A.U.S.
Executive

Exhibit N—(Continued)

10 March 1943

GENERAL ORDERS No. 13

Rescission of General Orders Nos. 1 to 181, Inclusive, Saving Clause, and Effective Date of General Orders Nos. 1 to 14, Inclusive, This Office, Dated 10 March 1943.

1. Rescission of General Orders Nos. 1 to 181, Inclusive, and Saving Clause.
2. Effective Date of General Orders Nos. 1 to 14, Inclusive, This Office, Dated 10 March 1943.

1. Rescission of General Orders Nos. 1 to 181, Inclusive, and Saving Clause.

1.01. General Orders Nos. 1 to 181, both inclusive, this office, bearing dates from December 7, 1941, to January 30, 1943, both dates inclusive, and all regulations issued pursuant to or under said General Orders, are rescinded as of March 10, 1943, provided, however, that the rescission of the aforesaid General Orders and regulations as herein provided shall not have the effect to release or extinguish any penalty, forfeiture or liability incurred by any person or to which any person or property has become subject or liable, under such General Orders Nos. 1 to 181, inclusive, or said regulations, or any part, portion, or provision of said General Orders, or said regulations, prior to March 10, 1943, nor constitute a bar on or after March 10, 1943, to the filing or preferring of charges against persons for violations of said General Orders, said regulations, or any part of por-

Exhibit No. (Continued)

tion thereof committeed prior to March 10, 1943, or the trial and determination of such offenses or charges against such persons by the Provost Courts, Military Commissions, and the Military Governor of the Territory of Hawaii; and provided, further, that the said General Orders, said regulations, and parts, portions, and provisions thereof so rescinded shall be and remain in force on and after March 10, 1943, for the purpose of authorizing the prosecution, trial, conviction, and punishment of all persons who shall have violated said General Orders, or said regulations, as aforesaid, prior to March 10, 1943, and that every offender having committed an offense or violation against such General Orders, or said regulations, prior to March 10, 1943, shall be punished under the General Orders, regulations, parts, provisions, or porations thereof, in force when the offense or violation was committed.

2. Effective Date of General Orders Nos. 1 to 14, Inclusive, This Office, Dated 10 March 1943.

2.01. General Orders, Nos. 1 to 14, both inclusive, this office, each dated March 10, 1943, and of which series of General Orders this General Orders is one and is No. 13, shall be in full force and effect throughout the Territory of Hawaii on and after March 10, 1943.

By order of the Military Governor of the Territory of Hawaii:

THOMAS H. GREEN
Brigadier General, A.U.S.
Executive

Exhibit N—(Continued)

10 March 1943

GENERAL ORDERS No. 14

Organization of the Office of the Military Governor

1. Executive Section.
2. District Representatives of the Military Governor.
3. Plans and Operations.
4. Central Identification Bureau.
5. Appointments.
6. Location of the Office of the Military Governor.

1. Executive Section.

1.01. Executive. The Executive and Assistant Executive of the Military Governor and others designated by them shall function on behalf of the Military Governor in carrying out the administration of all policies and operations of martial law and in coordinating and controlling all functions connected with such administration.

1.02 Law Enforcement. The military commissions, provost courts, and the Provost Court Commissioner will carry out the functions assigned to them in General Orders No. 2, this office, 10 March 1943, and amendments and additions thereto.

1.03. Legal Section. This section shall handle all matters with reference to military commissions and provost courts including review and appeal therefrom and recommendations to the Military Governor thereon, and shall render legal advice

Exhibit N—(Continued)

to the Military Governor and handle such other related matters as the Executive of the Military Governor may direct.

1.04. Public Information. Press releases and other information will be made available to the public by this section as ordered by the Military Governor.

1.05. Personnel. This section shall procure and administer the necessary personnel for the office operation of the Military Governor and perform such other related functions as directed.

1.06. Finance. This section shall handle all matters of finance connected with the office of the Military Governor and procure and administer supplies and equipment therefor.

1.07. Statistics and Engineering. This section shall handle all matters related to statistics and engineering referred to it by the Military Governor.

1.08. Trans-Pacific Travel. This section shall handle all matters concerning priorities of trans-Pacific travel and make recommendations to the Military Governor with reference thereto.

1.09. Military Property Comptroller. The Military Property Comptroller will carry out the functions set forth in Title 2. of General Orders No. 11, this office, 10 March 1943, and any amendments or additions thereto.

1.10. Internee and Evacuee Property Coordinator. The Internee and Evacuee Property Coordinator will carry out the functions set forth in Title 3. of General Orders No. 11, this office, 10

Exhibit Y—(Continued)

March 1943, and any amendments or additions thereto.

1.11. Hawaiian Department Alien Processing Center. The Hawaiian Department Alien Processing Center will handle all matters with reference to the interment or evacuation of persons in the Territory of Hawaii which are referred to it by the Military Governor.

2. District Representatives of the Military Governor.

2.01. The Commanding Generals of the Hawaii, Maui, Kauai, and Molokai-Lanai districts hereby are appointed Representatives of the Military Governor and hereby are charged with assisting in the administration and enforcement of the policies and orders of the Military Governor in their respective districts.

2.02. Representatives of the various sections and bureaus of the Office of the Military Governor will be appointed within the Districts of Hawaii, Maui, Kauai, and Molokai-Lanai as the situation may require. Such representatives shall be appointed by the Military Governor upon recommendation of the Commanding Generals of the respective districts acting as District Representatives of the Military Governor.

3. Plans and Operations.

3.01. Director of Plans and Operations. Under the direction of the Military Governor, the Director of Plans and Operations will make plans for, and control, coordinate, and supervise the activities

Exhibit N—(Continued)

of, such functional sections of the Office of the Military Governor as the Military Governor may direct and designate from time to time.

3.02. Director of Cargo and Passenger Control. In order to expedite the handling of all shipments at all Territorial ports, the Director of Cargo and Passenger Control is hereby directed to coordinate all port facilities.

3.03. Authority of Director of Cargo and Passenger Control. The Director of Cargo and Passenger Control will, to the extent directed by the Military Governor:

Supervise, coordinate and regulate dockage and stevedoring; barges, tugs, and floating equipment; the loading and discharging of fuel, including the use of fuel lines; transportation and other facilities necessary to expedite the handling of cargo and passengers; and the disposition of all cargo until removed from the dock area at all docks and wharves in the Port of Honolulu and in other Territorial ports;

Supervise, coordinate, and regulate, in accordance with priorities set by civilian agencies and transmitted to the Director of Cargo and Passenger Control by the Director of Plans and Operations, the allocation to vessels of all commercial cargo; and, in accordance with advice of the Army Transportation Corps, all Army cargo and vessels offered for shipment out of the Territory or between the islands;

Organize and set up an Assistant Director of

Exhibit N—(Continued)

Cargo and Passenger Control, together with such added personnel as the Military Governor may authorize, at each of the outlying ports of the Territory, to carry out the operations prescribed above.

3.04. Section of Labor Control. Under the direction of the Director of Labor Control, this section shall administer all matters pertaining to labor as promulgated by the Military Governor in General Orders No. 10, this office, 10 March, 1943, and any amendments or additions thereto.

3.05. Labor Control Board. A Labor Control Board hereby is created to investigate and arbitrate such labor disputes as may arise under the provisions of General Orders No. 10, this office, 10 March 1943, and any amendments or additions thereto, as well as such other labor disputes as may be referred to it by the Military Governor, and shall recommend to the Military Governor such labor policies as it shall deem advisable for the successful prosecution of the war effort.

This Labor Control Board shall consist of seven members as follows:

Director of Labor Control, Chairman

One (1) representative of the U. S. Army.

One (1) representative of the U. S. Navy

Two (2) representatives of the American Federation of Labor

One (1) representative of the Congress for Industrial Organization

One (1) representative of industry, appointed on recommendation of the Honolulu Chamber of Commerce.

Exhibit N—(Continued)

The decisions of this Labor Control Board shall not be final until approved by the Military Governor.

4. Central Identification Bureau.

4.01. The Central Identification Bureau will operate under a director appointed by the Military Governor and is charged with the registration of persons and the issuance of means of identification as required by the provisions of General Orders No. 8, this office, 10 March 1943, and any amendments or additions thereto.

5. Appointments.

5.01. The following appointments to the offices indicated hereby are made:

Major General James A. Woodruff, U.S.A., Director of the Central Identification Bureau;

Colonel B. F. Hayford, F. A., Director of Plans and Operations;

Commander Ernest Gray, U.S.N.R., Director of Cargo and Passenger Control;

Mr. John R. Mead, Director of Labor Control;

Mr. Alfred E. Tree, Military Property Comptroller;

Lieutenant Dwight H. Lowrey, Inf., Internee and Evacuee Property Coordinator.

5.02. The following officers are hereby designated District Military Property Comptrollers and also District Internee and Evacuee Property Coordinators in their respective districts:

Major William P. Crum, F.A., District of Kauai;

Major John D. Hagon, F.A., District of Maui;

Exhibit N—(Continued)

Major Thomas E. G. Paradine, Inf., District of Hawaii.

6. Location of the Office of the Military Governor.

6.01. The Office of the Military Governor of the Territory of Hawaii shall be located at Iolani Palace, Honolulu, T. H.

6.02. An Office of the Military Governor shall also be maintained in each district, including the Hawaii District, the Kauai District, the Maui District, and the Molokai-Lanai District, at such location as may be designated within the district by the Commanding General of each district acting as District Representative of the Military Governor.

By order of the Military Governor of the Territory of Hawaii.

THOMAS H. GREEN
Brigadier General A.U.S.
Executive

WILLIAM R. C. MORRISON
Colonel, J.A.G.D.
Assistant Executive

Exhibit N—(Continued)

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.

29 March 1943

General Orders No. 15.

AMENDMENTS TO GENERAL ORDERS

1. Amendment to General Orders No. 7, This Office, 10 March 1943.
2. Amendment to General Orders No. 12, This Office, 10 March 1943.

1. Amendment to General Orders No. 7, This Office, 10 March 1943.

1.01. General Orders No. 7, this office, 10 March 1943, hereby is amended by adding thereto a new title and two new paragraphs to be respectively known as Title 15, General Orders No. 7, Office of the Military Governor, 10 March 1943, and Paragraphs 15.01 and 15.02, and to read as follows:

"15. Hilo Restricted Area.

"15.01. There hereby is created and established, in the interests of military necessity and public safety, a restricted military area on the Island of Hawaii, Territory of Hawaii, consisting of the area at Hilo, Hawaii, T. H., between the Wailuku River and the Wailoa River on the East (maki) side of Kamehameha Avenue, from the East (maki) side of Kamehameha Avenue to the shoreline at the said City of Hilo, Hawaii, T. H.

Exhibit N—(Continued)

"15.02. No person, firm, or corporation shall use or occupy, or authorize or permit any person to use or occupy said area or any part or portion thereof, or any room, apartment, house, or building in said restricted military area, for dwelling or residential purposes. No person shall reside or dwell within said restricted military area."

2. Amendment General Orders No. 12, This Office, 10 March 1943.

2.01. Paragraph 6.03, General Orders No. 12, this office, dated 10 March 1943, hereby is amended to read as follows: [82]

"6.03. The Local Director of the United States Public Health Service and the Plant Quarantine Inspector are designated as consultants to the Medical Officers, designated in Paragraph 6.02 above, for these procedures."

By order of the Military Governor of the Territory of Hawaii.

/S/ THOMAS H. GREEN
Brigadier General, A.U.S.
Executive

A True Copy:

ROBERT B. GRIFFITH
Captain, Infantry.

Exhibit N—(Continued)

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.

5 April 1943

General Orders No. 16.

AMENDMENTS TO GENERAL ORDERS

1. Amendment to General Orders No. 3, This Office, 10 March 1943.
2. Amendment to General Orders No. 7, This Office, 10 March 1943.

1. Amendment to General Orders No. 3, This Office, 10 March 1943.

1.01. Paragraph numbered 2.04, Title 2, General Orders No. 3, this office, 10 March 1943, hereby is amended to read as follows:

"2.04. The following regulations are prescribed for the use of the lamp bulbs described in Paragraph numbered 2.03 immediately above.

"Only one such lamp bulb may be used in rooms having a floor area of one hundred (100) square feet or less.

"In rooms having a floor area of one hundred (100) square feet or more, and in corridors, one such lamp bulb may be used for each one hundred (100) square feet of such floor area and one additional lamp bulb of the kind aforesaid may be used for the fraction, if any, of floor area remaining, provided such fraction of floor area exceeds fifty (50) square feet.

Exhibit N—(Continued)

"When more than one such lamp bulb is used, the lamp bulbs shall be spaced at least five (5) feet apart.

"Such lamp bulbs shall be placed at least three (3) feet from any window, exterior door, or opening, and pointed toward the floor or ceiling.

"Such lamp bulbs shall not be pointed toward any window, exterior door, or other opening or a mirror. [83]

"These lamp bulbs in no case shall be used on the outside of buildings except with the approval of the Provost Marshal. Such lamp bulbs will not be used on lanais except with the written approval of the local Air Raid Warden. Such lamp bulbs when used with the approval of the said Provost Marshal or said Air Raid Warden will be used only in the manner authorized or approved by the said Provost Marshal or said Air Raid Warden, as the case may be.

"Every person, firm, or corporation using such a lamp bulb shall use said lamp bulb as provided herein and not otherwise."

2. Amendment to General Orders No. 7, This Office, 10 March 1943.

2.01. General Orders No. 7, this office, 10 March 1943, hereby is amended by adding thereto a new title and a new paragraph to be respectively known as Title 16, General Orders No. 7, Office of the Military Governor, 10 March 1943, and Paragraph 16.01, and to read as follows:

Exhibit N—(Continued)

"16. Punishing Persons Injuring or Tampering With Installations of the Armed Forces of the United States.

"16.01. No person shall, within the Territory of Hawaii cut, tear down, remove, handle, manipulate, interfere or tamper with, obstruct, trespass upon, or in any manner injure, damage, or destroy, any barbed wire fence, inclosure, obstruction, or entanglement, or any other military or naval fortification, emplacement, or installation of any form, kind, or type, erected or constructed, used, employed, or maintained by any of the Armed Forces of the United States for tactical purposes or for national security or defense, or in connection with the national defense or conduct of the war, wheresoever the same may be erected, constructed, or located, except on orders, or with the consent, of that authority of the Armed Forces of the United States controlling the said fence, inclosure, obstruction, entanglement, fortification, emplacement, or installation."

By order of the Military Governor of the Territory of Hawaii:

/S/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Assistant Executive

A True Copy:

ROBERT B. GRIFFITH
Captain, Infantry

Exhibit N—(Continued)

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.

6 April 1943

General Orders No. 17

AMENDMENTS TO GENERAL ORDERS

1. Amendment to General Orders No. 1, This Office, 10 March 1943.

1.01. General Orders No. 1, this office, 10 March 1943, hereby is amended to read as follows:

"1. Executive.

"1.01. William R. C. Morrison, Colonel, J.A.G.D., hereby is appointed Executive of the Military Governor."

/S/ DELOS C. EMMONS
Lieutenant General, United States Army, Commanding General, Hawaiian Department, Military Governor of the Territory of Hawaii.

A True Copy:

ROBERT B. GRIFFITH
Captain, Infantry [84]

Exhibit N—(Continued)

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.

21 April 1943

General Orders No. 18

AMENDMENTS TO GENERAL ORDERS

1. Amendment to General Orders No. 3, This Office, 10 March 1943.

1.01. Paragraph numbered 2.03, Title 2, General Orders No. 3, this office, 10 March 1943, hereby is amended to read as follows:

"2.03. Two types of lamp bulbs, hereinafter respectively referred to as Type I, which is the War Department Standard Blackout Light, and Type II, provided the same conform to the specifications or requirements hereinafter respectively prescribed for each of the aforesaid types of lamp bulbs, may be used in the controlled lighting authorized during the hours of blackout in Paragraph 2.02 above. The specifications or requirements prescribed for each type of said lamp bulbs are as follows:

The specifications or requirements prescribed for Type I of said lamp bulbs, being the War Department Standard Blackout Light, are as follows:

Watts—not more than 15 watts.

Volts—120 volts (lamp should be marked 115-125 volts).

Base—medium screw.

Exhibit N—(Continued)

Bulb—A15 Mazda, or equal, and internally frosted.

Bulb Coating—opaque except for curcular aperture on bulb end.

Circular Aperture—maximum diameter 1 inch. Aperture Color—orange or orange-red.

Opaque Coating Material—black and resistant to scratching or removal.

Approved bulbs—approved bulbs shall display a marking "Indoor Blackout—War Dept. Approved." [85]

"The specifications or requirements prescribed for Type II of said lamp bulbs are as follows:

Watts—not more than 25 watts.

Volts—220 to 240 volts to operate on 110 to 120-volt systems.

Base—medium screw.

Bulb—A19 Mazda or equal and internally frosted.

Bulb Coating—opaque except for circular aperture on bulb end.

Circular Aperture—maximum diameter 1 inch.

Opaque Coating Material—resistant to scratching or removal.

"Subject to the regulations hereinafter set forth in Paragraph numbered 2.04, during the hours of blackout lamp bulbs of Type I may be used indoors only, and lamp bulbs of Type II may be used either indoors or outdoors. No

Exhibit N—(Continued)

person, firm or corporation shall use a lamp bulb or lamp bulbs of Type I outdoors during the hours of blackout."

1.02. Paragraph numbered 2.04, Title 2, General Orders No. 3, this office, 10 March 1943, as amended by Paragraph numbered 1.01, Title 1, General Orders No. 16, this office, 5 April 1943, hereby is amended to read as follows:

"2.04. The following regulations are prescribed for the use indoors, during the hours of blackout, of lamp bulbs of Type I, and for the use, either indoors or outdoors, during the hours of blackout, of lamp bulbs of Type II, respectively described in Paragraph numbered 2.03 immediately above:

"Only one such lamp bulb, whether such lamp bulb be a lamp bulb of Type I or a lamp bulb of Type II, may be used in rooms having a floor area of one hundred (100) square feet or less.

"In rooms having a floor area of one hundred (100) square feet or more, and in corridors, one such lamp bulb may be used for each one hundred (100) square feet of such floor area and one such additional lamp bulb may be used for the fraction, if any, of floor area remaining, provided such fraction of floor area exceeds fifty (50) square feet.

"When more than one such lamp bulb is used indoors, the lamp bulbs shall be spaced at least five (5) feet apart.

Exhibit N—(Continued)

"Such lamp bulbs, when used indoors, shall be placed at least three (3) feet from any window, exterior door, or opening, and pointed toward the floor or ceiling.

"Such lamp bulbs, when used indoors, shall not be pointed toward any window, exterior door, or other opening or a mirror.

"Lamp bulbs of Type II may be used outdoors, provided that such lamp bulbs when so used are placed at least ten (10) feet apart and are pointed directly downward toward the floor or ground. Some outdoor uses suggested for said lamp bulbs of Type II, and permitted by the provisions of this paragraph, are the use thereof in or on arborways, exterior archways, doorways, galleries and vestibules, garages on residential property, gardens, lanais, loggias outside balconies, pathways, patios, porches, porticoes, roadways, terraces, verendas, walks, or yards. The aforesaid enumeration of suggested uses outdoors of said lamp bulbs of Type II is not intended to limit the use outdoors of said lamp bulbs to those uses specified above, but is only intended to give some examples of the outdoor uses that may be made of said lamp bulbs pursuant to the provisions of this paragraph.

"Every person, firm, or corporation, who or which during the hours of blackout uses such a lamp bulb, whether such lamp bulb be a lamp bulb of Type I or a lamp bulb of Type II, shall use said lamp bulb as provided herein and not otherwise."

Exhibit N—(Continued)

2. Amendment to General Orders No. 2, This Office, 10 March 1943.

2.01. Paragraph numbered 5.01, Title 5, General Orders No. 2, this office, 10 March 1943, hereby is amended to read as follows:

"5.01. Each of the following persons hereby is appointed as a Provost Court, and assigned to duty as such in addition to his other duties, for the trial of such persons as may properly be brought before the court, [86] at the respective places as hereinafter designated, viz.:

At Hilo, Hawaii, T. H., and at such other places on the Island of Hawaii, T. H., as the particular Provost Court may direct.

Col. Arthur C. Huston, Jr., Inf.
Captain Frank W. Hustace, Jr., J.A.G.D.
1st Lt. Woolridge B. Morton, Jr., F.A.

At Honolulu and Kaneohe, Oahu, T. H.

Col. John H. Howard, U.S.A.
Lt. Col. Moe D. Baroff, Inf.
Major Eugene V. Slattery, J.A.G.D.
Captain John F. Wickem, J.A.G.D.

At Lihue, Kauai, T. H., and at such other places on the Island of Kauai, T. H., as the Provost Court may direct.

Lt. Col. Charles A. Fisher, Inf.

At Lanai City, Lanai, T. H., and at such other places on the Island of Lanai, T. H., as the Provost Court may direct.

Arthur W. Carlson.

Exhibit N—(Continued)

At Wailuku, Maui, T. H., and at such other places on the Island of Maui, T. H., as the Provost Court may direct.

Lt. Col. Merryl G. Shaver, J.A.G.D.

At Kaunakakai, Molokai, T. H., and at such other places on the Island of Molokai, T. H., as the Provost Court may direct.

Lt. Col. Merryl G. Shaver, J.A.G.D.

At Palmyra Island, T. H.

The Commanding Officer, United States Naval Air Station.

At Schofield Barracks and Pearl City, Oahu, T. H.

Lt. Col. Henry DuPree, Inf."

3. Amendment to General Orders No. 7, This Office, 10 March 1943.

3.01. Paragraph numbered 10.02, Title 10, General Orders No. 7, this office, 10 March 1943, hereby is amended to read as follows:

"10.02. All vessels except harbor craft (including tugs and barges) based at Honolulu, berthed in Honolulu Harbor at any pier not under lease to or owned by the Federal Government, shall be charged and shall pay to the Emergency Waterfront Fund an Emergency Waterfront Charge. Effective from 15 April 1943, the Emergency Waterfront Charge shall be three quarters of one cent ($0.0075) per net registered ton for each half-day or fraction thereof that the ship is at the dock. The

Exhibit N—(Continued)

periods from Noon to Midnight and from Midnight to Noon shall each constitute a half-day."

By order of the Military Governor of the Territory of Hawaii:

/S/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Captain, Infantry [87]

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.

22 April 1943

General Orders No. 19

AMENDMENTS TO GENERAL ORDERS

1. Amendment to General Orders No. 12, This Office, 10 March 1943.

1.01. General Orders No. 12, this office, 10 March 1943, hereby is amended by adding thereto a new title and eight new paragraphs to be respectively known as Title 7, General Orders No. 12, Office of the Military Governor, 10 March 1943, and Paragraphs 7.01-7.08, inclusive, and to read as follows:

"7. Trans-Pacific Travel Control Bureau.

"7.01. In furtherance of the internal security and in order to conserve and utilize with the greatest benefit facilities for necessary and

Exhibit N—(Continued)

important traffic, a Bureau hereby designated and to be known as the "Trans-Pacific Travel Control Bureau" hereby is created and established by the Military Governor of the Territory of Hawaii, to be located in Honolulu, T. H.

"Said Trans-Pacific Travel Control Bureau, hereinafter sometimes designated as the "said bureau," shall have as its function and purpose the regulation and control of all trans-Pacific travel from the Territory of Hawaii to destinations without the said Territory of Hawaii whether such travel be by surface transportation or air transportation. Said bureau shall be included within, and be deemed an agency of, the Office of the Military Governor within the meaning and for all the purposes of Title 9, General Orders No. 2, this office, 10 March 1943.

"7.02. The said Trans-Pacific Travel Control Bureau will function jointly under the Military Intelligence Division, the Office of the Naval Intelligence Division, and the Federal Bureau of Investigation. [88]

"7.03. The term "person" or "persons," as used in the subsequent paragraphs of this Title 7 shall not include, and is not intended to refer to, members of the armed forces of the United States or civilians traveling on official business for the Government of the United States unless such civilians so traveling on official business as aforesaid are carrying away or intend to

Exhibit N—(Continued)

carry away, or are believed by the said bureau to be carrying away or intending to carry away, from the Territory of Hawaii, contrary to federal statutes or in violation of the rules, regulations, or orders of the Military Governor of the Territory of Hawaii, or of the military or naval authorities or of other federal authorities, materials, documents, papers, or other matters.

"7.04. Persons applying for trans-Pacific surface transportation from the Territory of Hawaii to any destination without the Territory of Hawaii shall appear in person at The Port and Transportation Division, Hawaiian Department Service Forces, Castle & Cooke Building, Merchant Street, Honolulu, T. H., and make application for such surface transportation at such Port and Transportation Division. Application for trans-Pacific air transportation from the Territory of Hawaii to any destination without the Territory of Hawaii may be made by the person desiring such air transportation, by telephone to Pan-American Airways, Pearl Harbor, T. H., (Telephone No. Honolulu 86266.)

"7.05. Persons using or adopting or intending to use or adopt such trans-Pacific surface or air transportation shall comply with all the rules, regulations, and orders now or hereafter issued or promulgated by those federal agencies mentioned in Paragraph 7.02 of this Title 7 or by the said Trans-Pacific Travel Control

Exhibit N—(Continued)

Bureau to carry out the provisions of this Title 7. No person shall violate any of the said rules, regulations, or orders.

"7.06. The said Trans-Pacific Travel Control Bureau hereby is authorized and empowered, whenever said bureau deems it proper or necessary, to order or require any person intending or ready to board or enter any surface or air craft for the purpose of leaving or departing from the Territory of Hawaii to a destination without the Territory of Hawaii to first or prior to so boarding or entering such surface or air craft submit or offer for inspection by said bureau, its agents or representatives at a place designated by said bureau, any baggage, parcels, packages, or containers which such person may have in his possession and then intends transporting with him to any destination without the Territory of Hawaii. No such person, who shall have been so ordered or required by said bureau to so submit or offer any such baggage, parcels, packages and containers for inspection as aforesaid, shall board or enter any surface or air craft for the purpose of leaving or departing from the Territory of Hawaii to any destination without the Territory of Hawaii without first submitting for inspection to the duly authorized agents or representatives of said bureau his said baggage, parcels, packages, or containers which such person has in his possession or under his

Exhibit N—(Continued)

control and then intends transporting with him to any destination without the Territory of Hawaii; nor shall any such person who has been so required or ordered to so submit or offer any such baggage, parcels, packages, and containers for inspection as aforesaid, be permitted or allowed to board or enter any surface or air craft, nor actually enter or board any such surface or air craft, for the purpose of so leaving or departing from the Territory of Hawaii unless the said baggage, parcels, packages, and other containers first shall have been inspected by the duly authorized agents or representatives of said bureau. The United States Customs Service and the United States Coast Guard hereby are designated as the agencies to conduct the inspections contemplated in this paragraph.

"7.07. No person shall leave or depart, or attempt to leave or depart, by means of trans-Pacific surface or air transportation, from the Territory of Hawaii to any destination without the said Territory of Hawaii, without first obtaining written permission to do so from the said Trans-Pacific Travel Control Bureau, or from the Military Governor of the Territory of Hawaii, or without complying with, or except as authorized by, the provisions of this Title 7.

"7.08. No person shall obtain or use, or attempt to obtain or use, any trans-Pacific sur-

Exhibit N—(Continued)

face or air transportation from the Territory of Hawaii to a destination without the said Territory of Hawaii [89] without complying with, or except as authorized by, the provisions of this Title 7."

By order of the Military Governor of the Territory of Hawaii:

/S/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Captain, Infantry

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.

26 April 1943

General Orders No. 20.

AMENDMENTS TO GENERAL ORDERS

1. Amendment to General Orders No. 10, This Office, 10 March 1943.

1.01. Paragraph numbered 5.03, Title 5, General Orders No. 10, this office, 10 March 1943, hereby is amended to read as follows:

"5.03. Employees on construction and other projects under the War Department or the Navy Department shall be paid overtime at the rate of one and one-half the regular rate for overtime in excess of forty-four (44) hours per

Exhibit N—(Continued).

week, or in excess of eight (8) hours in any one day. Where, because of emergency conditions, an employee is required to work for seven consecutive days in any regularly scheduled work-week a premium wage of double time compensation shall be paid for work on the seventh day. One and one-half regular rate will be paid for work performed on any of the following days only: New Year's Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day and Memorial Day."

By order of the Military Governor of the Territory of Hawaii.

/S/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Captain, Infantry [90]

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.

3 May 1943

General Orders No. 21.

AMENDMENTS TO GENERAL ORDERS

1. Amendment to General Orders No. 2, This Office, 10 March 1943.

1.01. Paragraph numbered 5.01, Title 5, General

Exhibit N—(Continued)

Orders No. 2, this office, 10 March 1943, as amended by Paragraph numbered 2.01, Title 2, General Orders No. 18, this office, 21 April 1943, hereby is amended to read as follows:

"5.01. Each of the following persons hereby is appointed as a Provost Court, and assigned to duty as such in addition to his other duties, for the trial of such persons as may properly be brought before the court, at the respective places as hereinafter designated, viz.:

At Hilo, Hawaii, T. H., and at such other places on the Island of Hawaii, T. H., as the particular Provost Court may direct.

Col. Arthur C. Huston, Jr., Inf.
Captain Frank W. Hustace, Jr., J.A.G.D.
1st Lt. Woolridge B. Morton, Jr., F.A.

At Honolulu and Kaneohe, Oahu, T. H.

Col. John H. Howard, U.S.A.
Lt Col. Moe D. Baroff, Inf.
Major Eugene V. Slattery, J.A.G.D.
Captain Edward N. Sylva, J.A.G.D.
Captain John F. Wiekem, J.A.G.D.

At Lihue, Kauai, T. H., and at such other places on the Island of Kauai, T. H., as the Provost Court may direct.

Lt. Col. Charles A. Fisher, Inf. [91]

At Lanai City, Lanai, T. H., and at such other places on the Island of Lanai, T. H., as the Provost Court may direct.

Arthur W. Carlson.

Exhibit N—(Continued)

At Wailuku, Maui, T. H., and at such other places on the Island of Maui, T. H., as the Provost Court may direct.

Lt. Col Merryl C. Shaver, J.A.G.D.

At Kaunakakai, Molokai, T. H., and at such other places on the Island of Molokai, T. H., as the Provost Court may direct.

Lt. Col. Merryl C. Shaver, J.A.G.D.

At Palmyra Island, T. H.

The Commanding Officer, United States Naval Air Station.

At Schofield Barracks and Pearl City, Oahu, T. H.

Lt. Col. Henry DuPree, Inf."

By order of the Military Governor of the Territory of Hawaii:

/S/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Captain, Infantry.

Exhibit N—(Continued)
Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T.H.

10 May 1943

General Orders)
No. 22)

AMENDMENTS TO GENERAL ORDERS

1. Amendments to General Orders No. 8, This Offiee, 10 March 1943.

1.01. Paragraph numbered 5.01, Title 5, General Orders No. 8, this office, 10 March 1943, hereby is amended to read as follows:

"5.01. Any person engaged in the handling of explosives on wharves or harbor installations or engaged in the transportation of such explosives from place to place will obtain a special red identification badge from the Central Identification Bureau. This badge will be issued to trained explosive handlers on the approval of the Captain of the Port and only to persons entitled to unrestricted (white) badges. For admission to restricted waterfront areas this badge will have the same status as a white (unrestricted) waterfront identification badge."

1.02. Paragraph numbered 5.02, Title 5, General Orders No. 8, this office, 10 March 1943, hereby is amended to read as follows:

"5.02. Any employee to whom a red identifi-

Exhibit N—(Continued)

cation badge such as that mentioned in Paragraph numbered 5.01 above has been issued shall return the said badge to the Central Identification Bureau within forty-eight (48) hours after the separation of the said employee from the service of the employer engaged in handling and transporting such explosives by whom the said employee was employed at the time of such separation. Absence of such an employee from his employment for three (3) consecutive days without leave of absence authorized by his employer will be deemed separation from such service. Upon separation of such an employee from his employment, the red [92] identification badge issued to said employee shall become null and void forthwith and the person covered by it is not authorized thereafter to use it for any purpose whatsoever. If such an employee is re-employed, the old red identification badge must be surrendered to the Central Identification Bureau and a new one must be obtained. In the event such an employee who separates himself from the service of his employer does not return the said red identification badge to the Central Identification Bureau within forty-eight (48) hours after his separation from the service of his said employer, the said employer shall within a period of seventy-two (72) hours thereafter obtain the said identification badge from the said employee and return said badge to the Central Identification Bureau. In the event the said identification

Exhibit N—(Continued)

Paragraph numbered 2.15, the term "source of light," shall include and hereby is defined to mean, (1) any glass inclosed filament, gas mantle, fluorescent or neon tube, arc light, or other light generating element, actually operating on an electric circuit or by illuminating gas, open flame, or otherwise, together with all inclosing or translucent material, or (2) the bright or reflecting portion of any reflector, lens, mirror, or luminaire, which is or can be used, or operates, to control or diffuse light, and the term "light" shall include, and hereby is defined to mean, any light or illumination produced, caused, generated, transmitted, or diffused by a source of light as herein defined. The term "source of light," or "light," as used in said Paragraphs numbered 2.16 and 2.17 shall not be construed to include the lamp bulbs to which reference is made in Paragraphs numbered 2.02, 2.03, and 2.04, as amended, General Orders No. 3, this office, 10 March 1943; nor shall anything contained in this paragraph numbered 2.15 or in said paragraphs numbered 2.16 and 2.17 be construed to repeal, rescind, or expressly or impliedly amend or be applicable in any way to, any part, portion, or provision of Paragraphs numbered 1.01, 1.02, 2.02 to 2.14, inclusive, or 3.01 to 3.13, inclusive, General Orders No. 3, this office, 10 March 1943. [98]

"2.16. Any person, firm, or corporation may use or operate a source of light or more than

Exhibit N—(Continued)

one source of light, or display a light or lights, within a building, whether or not such building be used as a dwelling house or for business, professional, social, or recreational purposes, until, but not later than ten o'clock P.M., during the hours of blackout prescribed for the place or military district within which such source of light is used or operated or said light or lights are displayed, although such source of light or said light or lights are visible from the outside of the said building in which the same are used, operated, or displayed, and regardless of the amount or degree of illumination thereof, provided that such source of light or said light or lights being so used until, but not later than, ten o'clock P.M. during the said hours of blackout are not then visible from the sea, and, provided that at said time the curtains or shades are down to the lowest source of light causing said lights, or that the source of light is so placed in the building that no part of the said source of light above the lowest level of said source of light is visible above the horizontal during the said hours of blackout outside the building in which the said source of light is used, operated, or displayed. No person, firm, or corporation shall, within a building in the Territory of Hawaii, use or operate a source of light or display a light or lights between the commencement of the hours of blackout and ten o'clock P.M. which are visible in whole or

Exhibit N—(Continued)

badge is not so returned to the Central Identification Bureau by the said employee or obtained by the said employer from the said employee as herein required, a report of the failure or inability of the said employer to so obtain the said identification badge will be submitted to the Central Identification Bureau by the said employer within ten (10) days after the date of the separation of the said employee from the said service of said employer."

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A true copy:

ROBERT B. GRIFFITH
Major, Infantry

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T.H.

11 June 1943

General Orders)
No. 23)

AMENDMENTS TO GENERAL ORDERS

1. Amendment to General Orders No. 14, This Office, 10 March 1943.

1.01. Paragraph numbered 5.02, Title 5, General

Exhibit N—(Continued)

Orders No. 14, this office, 10 March 1943, hereby is amended to read as follows:

"5.02. The following officers are hereby designated District Military Property Comptrollers and also District Internee and Evacuee Proper Coordinators in their respective districts:

Lt. Col. John W. Guerard, GSC, District of Molokai-Lanai;

Major William P. Crum, F.A., District of Kauai;

Major John D. Hagon, F.A., District of Maui;

Captain Harold P. Luscomb, Inf., District of Hawaii."

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry [93]

Exhibit N—(Continued)

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T.H.

18 June 1943

General Orders)
No. 24)

AMENDMENTS TO GENERAL ORDERS

1. Amendment to General Orders No. 10, This Office, 10 March 1943.

1.01. Paragraph numbered 4.01, Title 4, General Orders No. 10, this office, 10 March 1943, hereby is amended to read as follows:

"4.01. Revised Wage Schedule No. 9 (Third Re-issue), dated 16 June 1943 and effective at the beginning of the first pay roll period after 16 June 1943, hereby is designated as the standard wage scale for workers engaged in work on construction and other projects under the War Department or the Navy Department, and employees of such other employers as may be designated from time to time by the Military Governor. No persons seeking work or employed on construction or other projects under the War Department or the Navy Department, or with other employers designated by the Military Governor, shall be employed at a rate less than, or in excess of, the standard rate for the job as listed in said Revised Wage Schedule No. 9 (Third Reissue) as now established or

Exhibit N—(Continued)

as the same may be revised from time to time as approved by the Military Governor.".

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry [94]

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T.H.

12 July 1943

General Orders)
No. 25)

1. Controlled Lighting Test.

1.01. Definitions. The term "period" or "test period," as used herein, shall include, and hereby is defined to mean, the period from July 13, 1943, to July 19, 1943, inclusive. The term "source of light," as used herein, shall include, and hereby is defined to mean, (1) any glass-inclosed filament, gas mantle, fluorescent or neon tube, arc light, or other light generating element operating on an electric circuit, by illuminating gas, open flame, or otherwise, together with all inclosing or transluscent material, or (2) the bright or reflecting portion of any reflector, lens, mirror, or luminaire which is or can be used, or operates, to control or diffuse light. The

Exhibit N—(Continued)

term "light" or "source of light," as used herein, shall not be construed to include the lamp bulbs described in paragraphs numbered 2.02, 2.03, and 2.04, as amended, General Orders No. 3, this office, 10 March 1943. The term "horizontal," as used herein, shall include, and hereby is defined to mean, the plane or line parallel with the horizon and level with the bottom or lower point of a source of light.

1.02. Any of the parts, portions, or provisions of General Orders No. 3, this office, 10 March 1943, as amended, in conflict with paragraphs numbered 1.01, 1.03, and 1.04, of this General Orders No. 25, hereby are suspended for the said period from July 13, 1943, to July 19, 1943, inclusive and shall not be in force and effect during said test period. Upon the expiration of the period of the suspension thereof, unless otherwise amended or rescinded, the aforesaid parts, portions, or provisions of said General Orders No. 3, as amended prior to the enactment of this General Orders No. 25, again shall be in full force and effect.

1.03. During the said test period lights, regardless of the amount of illumination thereof, that are visible from the outside of a dwelling house may be used in a room, in a doorway, or on a lanai of such dwelling house until, but not later than, ten o'clock P.M. during the hours of blackout, provided that said lights are not visible from the sea and provided, further, that curtains or shades are [95] down to the lowest level of the lowest source of light causing said lights. No person shall use or operate

Exhibit N—(Continued)

a source of light between the commencement of the hours of blackout and ten o'clock P.M. which is visible from the exterior of said dwelling house in whole or in part above the horizontal. A light or source of light is visible from the sea within the meaning of this General Orders if, from any angle or position at a lanai, door, window, or other opening, the light or source of light is visible from the sea or if the sea can from any direction or position be seen by a person standing on the lanai, or inside the door or window at which the light or source of light is being used.

1.04. No person shall, after ten o'clock P.M. during the hours of blackout, use or operate a source of light which is visible on the outside of the building, house, or other structure in which the same is being used or operated, other than a lamp bulb authorized by paragraphs numbered 2.02, 2.03, and 2.04, as amended, General Orders No. 3, this office, 10 March 1943.

1.05. The test period provided for in this General Orders shall be deemed experimental only, and no person shall be arrested or punished for a violation of paragraph 1.03 of this General Orders committed prior to ten o'clock P.M., unless said violation be willful and deliberate. In the event of an air raid alarm during said test period it is requested that no person use or operate any such source of light which is visible from the exterior of the dwelling house in which the same is being used or operated.

Exhibit N—(Continued)

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T.H.

18 July 1943

General Orders)
No. 26)

AMENDMENTS TO GENERAL ORDERS

1. Amendments to General Orders No. 2, This Office, 10 March 1943.

1.01. Paragraph numbered 5.01, Title 5, General Orders No. 2, this office, 10 March 1943, as amended by Paragraph numbered 2.01, Title 2, General Orders No. 18, this office, 21 April 1943, and by Paragraph numbered 1.01, Title 1, General Orders No. 21, this office, 3 May 1943, hereby is amended to read as follows:

"5.01 Each of the following persons hereby is appointed as a Provost Court, and assigned to duty as such in addition to his other duties, for the trial of such persons as may properly

Exhibit N—(Continued)

be brought before the court, at the respective places as hereinafter designated, viz.:

"At Hilo, Hawaii, T.H., and at such other places on the Island of Hawaii, T.H., as the particular Provost Court may direct.

"Col. Arthur C. Huston, Jr., Inf.
Captain Frank W. Hustace, Jr., J.A.G.D.
1st Lt. Woolridge B. Morton, Jr., F.A.

"At Honolulu and Kaneohe, Oahu, T.H.

"Col. John H. Howard, U.S.A.
Lt. Col. Moe D. Baroff, Inf.
Major Eugene V. Slattery, J.A.G.D.

"At Lihue, Kauai, T.H., and at such other places on the Island of Kauai, T.H., as the Provost Court may direct.

"Lt. Col. Charles A. Fisher, Inf. [96]

"At Lanai City, Lanai, T. H., and at such other places on the Island of Lanai, T.H., as the Provost Court may direct.

"Arthur W. Carlson.

"At Wailuku, Maui, T.H., and at such other places on the Island of Maui, T.H., as the Provost Court may direct.

"Lt. Col. Merryl C. Shaver, J.A.G.D.

"At Kaunakakai, Molokai, T.H., and at such other places on the Island of Molokai, T.H., as the Provost Court may direct.

"Lt. Col. Merryl C. Shaver, J.A.G.D.

Exhibit N—(Continued)

"At Palmyra Island, T.H.

"The Commanding Officer, United States Naval Air Station.

"At Schofield Barracks and Pearl City, Oahu, T.H.

"Lt. Col. Henry DuPree, Inf."

1.02. Title 5, General Orders No. 2, this office, 10 March 1943, hereby is amended by adding thereto a new paragraph to be known as Paragraph 5.02, Title 5, General Orders No. 2, Office of the Military Governor, 10 March 1943, and to read as follows:

"5.02 Captain John F. Wickhem, J.A.G.D., hereby is appointed as a Provost Court and assigned to duty as such a Provost Court in addition to his other duties, for the trial of such persons as may properly be brought before the said Provost Court, and shall sit as said Provost Court at such times and places within the Territory of Hawaii as the Military Governor of the Territory of Hawaii may from time to time direct."

1.03. Paragraph numbered 6.03, Title 6, General Orders No. 2, this office, 10 March 1943, hereby is amended to read as follows:

"6.03. John F. Wickhem, Captain, J.A.G.D., hereby is appointed the Provost Court Commissioner for the Territory of Hawaii and assigned to duty as such Provost Court Commissioner in addition to his other duties."

Exhibit N—(Continued)

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry [97]

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T.H.

19 July 1943

General Orders)
No. 27)

AMENDMENTS TO GENERAL ORDERS

1. Amendments to General Orders No. 3, This Office, 10 March 1943.

1.01. General Orders No. 25, this office 12 July 1943, hereby is rescinded.

1.02. Title 2, General Orders No. 3, this office, 10 March 1943, hereby is amended by adding thereto three (3) paragraphs to be numbered and known as Paragraphs 2.15, 2.16, and 2.17, Title 2, General Orders No. 3, Office of the Military Governor, 10 March 1943, and to read as follows:

"2.15. As used in Paragraphs numbered 2.16 and 2.17, General Orders No. 3, Office of the Military Governor, 10 March 1943, being the two paragraphs immediately following this

Exhibit N—(Continued)

in part above the horizontal from the exterior of said building.

"2.17. No person, firm, or corporation shall, after ten o'clock P.M. during the hours of blackout, use or operate within a building a source of light which is visible from the outside of the said building, other than a lamp bulb authorized by Paragraphs numbered 2.02, 2.03, and 2.04, as amended, General Orders No. 3, this office, 10 March 1943; and no person, firm, or corporation shall, within the Territory of Hawaii, at any time during the hours of blackout, use or operate such a source of light outside a building."

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry

Exhibit N—(Continued)

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T.H.

27 July 1943

General Orders)
No. 28)

AMENDMENTS TO GENERAL ORDERS

1. Amendment to General Orders No. 8, This Office, 10 March 1943.

1.01 Title 8 and Paragraphs numbered 8.01, 8.02, 8.03, 8.04 and 8.05, General Orders No. 8, this office, 10 March 1943, hereby are rescinded.

2. Amendment to General Orders No. 14, This Office, 10 March 1943.

2.01. Paragraph numbered 5.02, Title 5, General Orders No. 14, this office, 10 March 1943, as amended by Paragraph numbered 1.01, Title 1, General Orders No. 23, this office, 11 June 1943, hereby is amended to read as follows:

"5.02. The following officers are hereby designated District Military Property Comptrollers and also District Internee and Evacuee Property Coordinators in their respective districts:

Major William P. Crum, F.A., District of Kauai;

Major John D. Hagon, F.A., District of Maui;

Captain Harold P. Luscomb, Inf., District of Hawaii;

Exhibit N—(Continued)

1st Lt. Haskell A. Belew, C.M.P., District of Molokai-Lanai."

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry [99]

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T.H.

31 July 1943

General Orders)
No. 29)

AMENDMENTS TO GENERAL ORDERS

1. Amendments to General Orders No. 9, This Office, 10 March 1943.

1.01. General Orders No. 9, this office, 10 March 1943, hereby is amended by adding thereto a new title and four new paragraphs to be respectively known as Title 12, General Orders No. 9, Office of the Military Governor, 10 March 1943, and Paragraphs 12.01, 12.02, 12.03 and 12.04, and to read as follows:

"12. Restrictions on Sending or Receiving Mail for Members of the Armed Forces of the United States and on Transmitting and Receiv-

Exhibit N—(Continued).

ing Communications by Radio, Cable, Inter-Island, Radiotelephone, or Trans-Pacific Telephone, for Members of the Said Armed Forces or for Merchant Seamen.

"12.01. No person, firm, or corporation shall, within the Territory of Hawaii, for or on behalf of or at the request, direction, or order of any member of the armed forces of the United States within the Territory of Hawaii, mail, deposit for mailing or delivery by mail, or attempt to mail, any card, letter, subscription to a newspaper, magazine, or other publication published or printed and published outside the Territory of Hawaii, any order or request for the entry of any such subscription, any communication of any kind or nature, or any parcel, package, publication, or other property of any kind, to any person, firm, corporation, or place outside the said Territory of Hawaii, regardless of whether or not such card, letter, subscription, order or request for the entry thereof, communication, parcel, package, publication, or other property be the property of the said member of the armed forces of the United States or of the person, firm, or corporation to whom mailed, or of the said person, firm, or corporation so mailing the same; nor shall any person, firm, or corporation receive any such property [100] within the Territory of Hawaii for the purpose of so mailing the same. The provisions of this Paragraph 12.01 shall not be applicable to any

Exhibit N—(Continued)

employee or representative of the United States Post Office Department or other federal agency or department who, within the scope and course of his official duties and employment, mails or receives for transmittal in the United States mail any cards, letters, subscriptions or orders or requests for the entry thereof, communications, parcels, packages, publications, or other property to which reference hereinabove is made; nor shall the provisions of this paragraph be applicable to any publisher of a newspaper, book, magazine, or other publication within the Territory of Hawaii who so mails, or so receives for such mailing, a newspaper, book, magazine, or other publication published by such publisher, provided the return address imprinted, stamped, or written on said publication or on the wrapper or container in which said publication is mailed is that of such publisher, and provided that nothing is written, printed, or shown in or on said publication or the wrapper, envelope, or container in which the said publication is mailed, that will indicate that the same was mailed, or received for mailing, for or on behalf of or at the request, direction, or order of any member of the armed forces of the United States.

"12.02. No person who is not a member of the armed forces of the United States, firm, or corporation shall, within the Territory of Hawaii, send or transmit, cause to be sent or trans-

Exhibit N—(Continued)

mitted, attempt to send or transmit, or receive for the purpose of transmitting, by wireless, radio, cable, telegraph, radiotelephone, or telephone to any point, place, or destination outside the Territory of Hawaii, or from any point, place or destination on an island within the Territory of Hawaii to a point, place, or destination on another island within the Territory of Hawaii, or leave, deliver to, or place with any wireless, radio, cable, telegraph radiotelephone, or telephone company for the purpose of having it so sent or so transmitted, any information, statement, message, or communication of any kind or nature, for or on behalf of or at the request, direction, or order of any member of the armed forces of the United States or of any merchant seaman within the Territory of Hawaii. No person, firm, or corporation shall receive within the Territory of Hawaii at the request, direction, or order of any member of the armed forces of the United States or of any merchant seaman any information, statement, message, or communication of any kind or nature which has been transmitted to such person, firm, or corporation, by wireless, radio, cable, telegraph, radiotelephone or telephone, from a place outside the Territory of Hawaii, or from a place on another island within the Territory of Hawaii other than the island on which such person, firm, or corporation is situated at the time that such information, state-

Exhibit N—(Continued)

ment, message or communication is received by said person, firm, or corporation. The provisions of this Paragraph 12.02 shall not be applicable to any member of the Signal Corps of the Army of the United States or of any similar department or agency in any of the other components of the armed forces of the United States, or to any wireless, radio, cable, telegraph, radiotelephone or telephone company with respect to any information, statement, or message transmitted by any such company in accordance with censorship regulations established by the armed forces or other censorship agencies of the United States; nor shall the provisions of this paragraph prohibit a bank within the Territory of Hawaii from providing for the delivery of money to, at, or within a place either within or outside the Territory of Hawaii, an established commercial florist within the Territory of Hawaii from providing for the delivery of flowers to, at, or within a place either within or outside the Territory of Hawaii, or an established candy dealer within the Territory of Hawaii from providing for delivery of candy to, at, or within a place either within or outside the Territory of Hawaii, for or on behalf of or at the request, direction, or order of any member of the armed forces of the United States or of any merchant seaman within the Territory of Hawaii, provided such member of said armed forces or said merchant seaman for or by whom

Exhibit N—(Continued)

the said money, flowers, or candy is so delivered is duly authorized by competent military, naval, or other federal authority to so deliver, or cause to be so delivered, said money, flowers, or candy.

"12.03. No person who is not a member of the armed forces of the United States, firm, or corporation shall, within the Territory of Hawaii, file or originate a radio or radiotelephone call to any other place, point or destination either within or outside the Territory of Hawaii, for the purpose of allowing or providing a means for a member of the armed forces of the United States to participate in the telephone call from the point of origin, or with the knowledge that a member of the armed forces of the United [101] States is going to participate in the call from the point of origin, or for the purpose of making contact with a member of the armed forces of the United States, other than the party called at the point of destination, or with the knowledge that a member of the armed forces of the United States other than the party called at the point of destination is going to participate in the call.

"12.04. No person other than a member of the armed forces of the United States shall mail any card, letter, parcel, package, publication, or property of any kind in a Post Office of the Army or Navy of the United States, or deposit for mailing in any such Post Office any card, letter, parcel, package, publication, or property

Exhibit N—(Continued)

of any kind, or in any manner use any such Post Office, unless first duly authorized to do so by competent military or naval authority."

1.02. General Orders No. 9, this office, 10 March 1943, hereby is amended by adding thereto a new title and three new paragraphs to be respectively known as Title 13, General Orders No. 9, Office of the Military Governor, 10 March 1943, and Paragraphs 13.01, 13.02, and 13.03, and to read as follows:

"13. Filing of Cable and Radio Messages by Merchant Seamen.

"13.01. In order to insure the security of vessels of the United States or of Allied Nations any merchant seaman on the Island of Oahu desiring to send a cable or radio message shall obtain approval for the filing of such cable or radio message at the office of the District Cable Censor, 1160 Bishop Street, Honolulu, T. H., and any merchant seaman on the Island of Molokai so desiring to send a cable or radio message shall obtain the necessary approval for the filing of such cable or radio message at the office of the field censor located at the local Service Command Headquarters, and any merchant seaman on the Islands of Hawaii, Maui, or Kauai desiring to send a cable or radio message shall obtain approval for the filing of such cable or radio message at the office of the field censor located at the main telephone exchange on the island on which such merchant seaman shall be at the time that he proposes to send

Exhibit N—(Continued)

such message. No merchant seaman shall file any cable or radio message directly with the office of any commercial cable or radio company, bank, or florist until approval to do so has been first obtained as herein required.

"13.02. The term "merchant seaman" or "merchant seamen" as used in this General Orders, or in any other General Orders of the Military Governor, shall include, and hereby is defined to mean, any of the following, to wit: Personnel (officers, crew members, and others) attached to, employed on, or on duty aboard vessels controlled by the United States or nations allied with it in the present world wide conflict, except Army and Navy personnel, who are governed by appropriate Army and Navy censorship regulations, and civilian or military personnel employed on or on duty aboard vessels of the Army Transport Service, who have already been directed to file cable and radio messages at an Army Post Office.

"13.03. Merchant seamen, except persons having a bona fide permanent residence in the Territory of Hawaii, shall not give or use any address (including an address in care of a bank or communications company) within the Territory of Hawaii for the receipt of mail or cable or radio communications."

Exhibit N—(Continued)

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry [102]

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T.H.

13 August 1943

General Orders)
No. 30)

AMENDMENTS TO GENERAL ORDERS

No. 1. Amendment to General Orders No. 1, This Office, 10 March 1943.

1.01. General Orders No. 1, this office, 10 March 1943, as amended by Paragraph numbered 1.01, Title 1, General Orders No. 17, this office, 6 April 1943, hereby is amended by adding thereto a new title and a new paragraph to be respectively known as Title 2, General Orders No. 1, Office of the Military Governor, 10 March 1943, and Paragraph 2.01, and to read as follows:

"2. Executive to the Military Governor for Cargo and Passenger Control.

"2.01. Roy E. Blount, Colonel, Cavalry,

Exhibit N—(Continued)

hereby is appointed Executive to the Military Governor for Cargo and Passenger Control."

2. Amendments to General Orders No. 3, This Office, 10 March 1943.

2.01. Paragraph numbered 2.16, Title 2, General Orders No. 3, this office, 10 March 1943, hereby is amended to read as follows:

"2.16. Any person, firm, or corporation may use or operate a source of light or more than one source of light, or display a light or lights, within a building, whether or not such building be used as a dwelling house or for business, professional, social, or recreational purposes, during the hours of blackout prescribed for the place or military district within which such source of light is used or operated or said light or lights are displayed, except from 10 o'clock P.M. until five-thirty o'clock A.M., although such source of light or said light or lights are visible from the outside of the said building in which the same are used, [103] operated, or displayed, and regardless of the amount or degree of illumination thereof, provided that such source of light or said light or lights being so used during the hours of blackout, except from ten o'clock P.M. until five-thirty o'clock A.M., are not then visible from the sea, and, provided that at said time the curtains or shades are down to the lowest source of light causing said lights, or that the source of light is so placed in the building that no part of the said source of

Exhibit N—(Continued)

light above the lowest level of said source of light is visible above the horizontal during the said hours of blackout outside the building in which the said source of light is used, operated, or displayed. No person, firm, or corporation shall, within a building in the Territory of Hawaii, use or operate a source of light or display a light or lights between the commencement of the hours of blackout and ten o'clock P.M., or from five-thirty A.M. until the termination of the hours of blackout, which are visible in whole or in part above the horizontal from the exterior of said building."

2.02. Paragraph numbered 2.17, Title 2, General Orders, No. 3, this office, 10 March 1943, hereby is amended to read as follows:

"2.17. No person, firm, or corporation shall, from ten o'clock P.M. until five-thirty o'clock A.M., use or operate within a building a source of light which is visible from the outside of the said building, other than a lamp bulb authorized by Paragraphs numbered 2.02, 2.03, and 2.04, as amended, General Orders No. 3, this office, 10 March 1943; and no person, firm, or corporation shall, within the Territory of Hawaii, at any time during the hours of blackout, use or operate such a source of light outside a building."

3. Amendment to General Orders No. 12, This Office, 10 March 1943.

3.01. Paragraph numbered 7.04, Title 7, General

Exhibit N—(Continued)

Orders No. 42, this office, 10 March 1943, hereby is amended to read as follows:

"7.04. Persons applying for trans-Pacific surface transportation from the Territory of Hawaii to any destination without the Territory of Hawaii shall appear in person at the War Shipping Administration Passenger Section, Castle & Cooke Building, Merchant Street, Honolulu, T. H., and make application for such surface transportation at such War Shipping Administration Passenger Section. Application for trans-Pacific air transportation from the Territory of Hawaii to any destination without the Territory of Hawaii may be made by the person desiring such air transportation, by telephone to Pan-American Airways, Pearl Harbor, T. H., (Telephone No. Honolulu 86266.)"

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry [104]

Exhibit N—(Continued)

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T.H.

18 September 1943

General Orders)
No. 32)

AMENDMENTS TO GENERAL ORDERS

1. Amendment to General Orders No. 2, This Office, 10 March 1943.

1.01. Paragraph numbered 5.01, Title 5, General Orders No. 2, this office, 10 March 1943, as amended by Paragraph numbered 2.01 Title 2, General Orders No. 18, this office, 21 April 1943, Paragraph numbered 1.01, Title 1, General Orders No. 21, this office, 3 May 1943, and Paragraph numbered 1.01, Title 1, General Orders No. 26, this office, 18 July 1943, hereby is amended to read as follows:

"5.01. Each of the following persons hereby is appointed as a Provost Court, and assigned to duty as such in addition to his other duties, for the trial of such persons as may properly be brought before the court, at the respective places as hereinafter designated, viz.:

"At Hilo, Hawaii, T.H., and at such other places on the Island of Hawaii, T.H., as the particular Provost Court may direct.

"Col. Arthur C. Huston, Jr., Inf.
Captain Frank W. Hustace, Jr., J.A.G.D.
1st Lt. Woolridge B. Morton, Jr., F.A.

Exhibit N—(Continued)

"At Honolulu and Kaneohe, Oahu, T.H.

"Lt. Col. Eugene V. Slattery, J.A.G.D.

"At Lihue, Kauai, T.H., and at such other places on the Island of Kauai, T.H., as the Provost Court may direct.

"Lt. Col. Lewis H. Jones, J.A.G.D.

Lt. Col. J. M. Arvey, J.A.G.D. [105]

"At Lanai City, Lanai, T.H., and at such other places on the Island of Lanai, T.H., as the Provost Court may direct.

"Arthur W. Carlson.

"At Wailuku, Maui, T.H., and at such other places on the Island of Maui, T.H., as the Provost Court may direct.

"Lt. Col. Merryl C. Shaver, J.A.G.D.

"At Kaunakakai, Molokai, T.H., and at such other places on the Island of Molokai, T.H., as the Provost Court may direct.

"Lt. Col. Merryl C. Shaver, J.A.G.D.

"At Palmyra Island, T.H.

"The Commanding Officer, United States Naval Air Station.

"At Schofield Barracks and Pearl City, Oahu, T.H.

"Lt. Col. Henry DuPree, Inf."

Exhibit N—(Continued)

By Order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T.H.
20 September 1943

General Orders)
No. 33)

AMENDMENTS TO GENERAL ORDERS

1. Amendments to General Orders No. 8, This Office, 10 March 1943.

1.01. Paragraph numbered 3.05, Title 3, General Orders No. 8, this office, 10 March 1943, hereby is amended to read as follows:

"3.05. Employers desiring passes for employees to enter posts, camps, stations or other restricted areas under the Army Port and Service Command will submit such lists for approval to the Commanding Officer of the Army Port and Service Command. Employers desiring that their employees enter restricted posts or areas not under the jurisdiction of the Army Port and Service Command will submit such

Exhibit N—(Continued)

lists to the Commanding Officers of the posts or areas concerned. In each case such list should state the name of the employee, the duty performed, and the installations or area to which admittance is desired. The Commanding Officer, if he approves, will refer the request to the C.I.B. where the history of each individual will be examined. The required form of badge will be issued by the C.I.B. to those individuals whose credentials are acceptable."

1.02. Paragraph numbered 3.06, Title 3, General Orders No. 8, this office, 10 March 1943, hereby is amended to read as follows:

"3.06. The Commanding Officer of the Army Port and Service Command or the Commanding Officers of military establishments under other commands may at any time revoke [106] the authority to enter areas under their respective jurisdictions. In such event, the C.I.B. will recall the badge, or "Special" badge and identification card, and, if necessary, will issue a new identification card, omitting the post, establishment, or area to which authority to enter has been revoked."

Exhibit N—(Continued)

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T.H.
28 September 1943

General Orders)
No. 34)

AMENDMENTS TO GENERAL ORDERS

1. Amendments to General Orders No. 9, This Office, 10 March 1943.

1.01. General Orders No. 9, this office, 10 March 1943, hereby is amended by adding thereto a new title and two new paragraphs to be respectively numbered and known as Title 14, General Orders No. 9, Office of the Military Governor, 10 March 1943, and Paragraphs 14.01 and 14.02, Title 14, General Orders No. 9, Office of the Military Governor, 10 March 1943, and to read as follows:

"14. Censorship of Electrical Communications.

"14.01. All communications by cable, radio, telephone or other means of electrical transmis-

Exhibit N—(Continued)

sion entering or leaving the Territory of Hawaii, or passing between any of the islands of the Territory, or between the Territory and any vessel or aircraft, shall be censored under "U.S. Censorship Regulations" issued by the Director of Censorship or under such other rules and regulations as the Military Governor may have specified or may from time to time specify.

"1402. No person, firm, or corporation shall evade or attempt to evade the submission of any such communication to such censorship, or use or attempt to use any code or other device unauthorized by such censorship for the purpose of concealing from such censorship the intended meaning of any such communication, or for the purpose of transmitting any information whatever, or falsify any information for the purpose of concealing from such censorship the identity of any person who is a party to or is [107] referred to in any such communication, or violate or attempt to violate by any other means or in any other manner the rules and regulations of such censorship."

By Order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry

Exhibit N—(Continued)
Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.
30 September 1943

General Orders)
No. 35)

AMENDMENTS TO GENERAL ORDERS

1. Amendment to General Orders No. 4, This Office, 10 March 1943.

1.01. General Orders No. 4, this office, 10 March 1943, hereby is amended by adding thereto a new title and five new paragraphs to be respectively numbered and known as Title 8, General Orders No. 4, Office of the Military Governor, 10 March 1943, and Paragraphs 8.01, 8.02, 8.03, 8.04 and 8.05, Title 8, General Orders No. 4, Office of the Military Governor, 10 March 1943, and to read as follows:

"8. Vacating of Congested Business Area Upon Sounding of an Air Raid Alarm.

"8.01. Congested Business Area. The term "congested business area" as used in this General Orders, hereby is designated and declared to be all of that portion of the City and County of Honolulu, Territory of Hawaii, bounded by a line running from Kapalama Basin mauka along the ewa side of Kapalama Drainage Canal to the mauka side of Vineyard Street; thence waikiki along the mauka side of Vineyard Street to the intersection of Miller Street and Punchbowl Street; thence mauka

Exhibit N—(Continued)

along the ewa side of Miller Street to the mauka side of Captain Cook Avenue; thence waikiki along the mauka side of Captain Cook Avenue to the waikiki side of Kapiolani Street; thence makai along the waikiki side of Kapiolani Street to the intersection of Ward Avenue and King Street; thence makai along the waikiki side of Ward Avenue to Kewalo Basin; thence ewa along the shore line of the Island of Oahu to the place of beginning.

"8.02. Public Vehicles. All common carriers are permitted to operate within the congested business area until the said area is vacated or operation therein becomes impossible.

"8.03. Private and Unofficial Vehicles. Private and unofficial vehicles which are parked on the streets in the [108] congested business area will be driven by the owners or persons in charge thereof away from the aforesaid area as soon as possible after sounding of an air raid alarm. To avoid congestion it is desirable that private and unofficial vehicles in parking lots or garages be left in place. Private and unofficial vehicles will not enter the aforementioned area after the sounding of an air raid alarm until after the "all clear" signal is given.

"8.04. Pedestrians. No pedestrian, except on official business, will be permitted to enter the congested business area after the alarm has

Exhibit N—(Continued)

been sounded until the "all clear" signal has been given. Individuals in the congested business area, except key personnel authorized in Paragraph 8.05 below, who do not have official iduties to perform therein during an alarm will observe the following rules during the thirty (30) minute period after sounding of the alarm;

Proceed out of the said area, preferably in a mauka direction.

Pedestrians will not move makai except on blind roads or lanes where it is necessary to do so before proceeding mauka.

Pedestrians will have little, if any protection from or in most of the buildings within the aforementioned area. Every effort will be made to vacate the said area within thirty (30) minutes after an air raid alarm is sounded. Shelter in buildings or splinter-proof shelters built by the O. C. D. should be sought only when attack seems imminent. Whenever antiaircraft firing begins, all civilians not on official duty shall take the nearest shelter.

After termination of the first thirty (30) minute period traffic parallel to the waterfront shall be prohibited within the congested business area except to official vehicles, common carriers and individuals on official business.

"8.05. Certain key personnel necessary as fire wardens, to prevent looting, and to protect property will be allowed to remain on duty in

Exhibit N—(Continued)

business establishments within the said congested business area. Lists of such personnel will be forwarded to the Department Provost Marshal. Up-to-date lists of approved personnel will be kept on file by each such establishment."

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry [109]

—

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.

5 October 1943

General Orders
No. 36

AMENDMENTS TO GENERAL ORDERS:

1. Amendments to General Orders No. 3, This Office, 10 March 1943.

1.01. Paragraph numbered 2.06, Title 2, General Orders No. 3, this office, 10 March 1943, hereby is amended to read as follows

"2.06. Businesses or Industries Engaged in War Effort or National Defense. No person,

Exhibit N—(Continued)

firm, or corporation who or which owns, operates, maintains, or is engaged in any business or industry producing essentials necessary to the war effort, or otherwise connected with the national defense, shall violate, refuse, fail, or neglect to comply with all of the provisions of any rules, regulations, or General Orders of the Military Governor of the Territory of Hawaii relating to, or pertaining to, blackout in the Territory of Hawaii, now in full force and effect or hereafter enacted or issued, unless permission first is obtained from the Office of the Military Governor of the Territory of Hawaii or the respective Representatives of the Military Governor of the Territory of Hawaii to so operate or maintain said business or industy without complying with any or all of the said provisions of said rules, regulations or General Orders, subject, however, to any conditions designated, established, or created by the Office of the Military Governor of the Territory of Hawaii or the said respective Representatives of the Military Governor of the Territory of Hawaii, except, that in no event, shall the said business or industry be operated in such a manner as to permit or allow any source [110] of light, or light, or lights, to be visible from the sea at any time during the hours of blackout."

1.02. Paragraphs numbered 2.07, 2.08, and 2.14,

Exhibit N—(Continued)

Title 2, General Orders No. 3, this office, 10 March 1943, hereby are rescinded.

1.03. Paragraphs numbered 3.01 to 3.16, inclusive, Title 3, General Orders No. 3, this office, 10 March 1943, hereby are amended to read as follows:

"3.01. No person shall drive or operate any motor vehicle during the hours of blackout unless said motor vehicle shall conform to the specifications as set forth in the following paragraphs of this title, except that United States Army motor vehicles equipped with standard United States Army blackout lights are not required to conform to said specifications.

"3.02. Headlight. Two (2) approved blackout driving headlights shall be used on each motor vehicle, except on motorcycles and motor scooters, which shall have but one (1). Such lamps shall have the necessary color design as described below, with a slot which emits white light for driving. This slot shall be covered by a metal hood. Except as shown in Paragraph 3.06 and 3.10 below, the mounting height of the headlights shall be not less than twenty-four (24) inches nor more than fifty-five (55) inches measured from road level to the bottom of the slot, and in no case higher than the top of the rim of the steering wheel. With the vehicle on level surface and carrying a capacity load, the unit shall be so adjusted that the bottom of

Exhibit No. (Continued)

the slot is horizontal and so aimed that the beam shall drop four (4) inches measured on a vertical screen ten (10) feet in front of the lamp and in no instances higher than fifty-one (51) inches from the road level. When mounted on motorcycles or motor scooters, the lamp shall be placed on the front as near the center as possible to the normal line of operator's vision and far enough forward to eliminate any objectionable reflection of light from any portion of the vehicle.

"The upper sector of the headlight shall be painted a red color of a brightness of 3 and not to exceed 3.5 foot-lamberts (this light shall be visible at a distance of one thousand (1,000) and not over one thousand five hundred (1,500) feet). The thickness of the red band at the center of the vertical axis shall be at least one and one-half (1½) inches and not to exceed two and one-half (2½) inches. Paint shall be sprayed on the lens instead of brushing, thus producing an even surface. The other portion of the headlight, with the exception of the white light slot, shall be painted black or lusterless olive drab.

"White Light Slot. Except as shown in Paragraphs 3.06 to 3.11 below the white light slot for all motor vehicles shall be not less than one-eighth (⅛) inch in width and shall not exceed three-eighths (⅜) inch in width and may extend across the face the entire length of the lens at right angles to the vertical axis of

Exhibit N—(Continued)

the headlight. The bottom of the white light slot shall be located three-fourths (¾) inch below the horizontal center line of the headlight lens and shall extend upwards not to exceed three-eighths (⅜) inch from that point.

"Metal Shield or Hood Over Slot. The metal shield or hood over the white light slot shall be of twenty (20) to twenty-eight (28) gauge sheet metal extending from side to side of the headlamp. The extended forward edge of the shield shall be parallel to and fixed at from 0" to 1/16" above the bottom line of the white light slot, and shall be tightly clamped to the outer rim of the headlamp. At the center of the vertical axis of light, the shield shall have an angle of from forty-five (45) to seventy (70) degrees from the vertical axis at the face of the lens and sloped downward so that the outer edge of the shield shall be at least one and three-quarters (1¾) inches and not more than two and one-half (2½) inches from the lens at the narrowest part of the shield. The outer edge of the shield shall be folded back approximately three-eighths (⅜) inch to provide stiffness for the shield. The ends of the shield shall be closed and extended sufficiently back into the lamp to provide a clip to hold the shield in position on the headlamp. The inner face of the shield, or face on the lens side, shall be made to fit snugly to the curvature of the lens. Due to various types of headlights now in use on vehicles, the curvature of

Exhibit N—(Continued)

the shield shall be cut to fit each individual type of lens. The shield edge, when in proper position, shall give the adjustment prescribed in Paragraph 3.02 supra. The shield shall be painted black or [111] lusterless olive drab on the exterior and interior surfaces. Suitable mastic shall be applied around the circumference of the lens at the junction of the glass with the retaining rim and between the inner face of the shield and headlight lens, to properly shield any light at these points.

"3.03. Combination Tail and Stop Lamp, Reflectors, and Additional Equipment. One (1) tail, or combination tail and stop, lamp shall be securely mounted on the extreme rear of the vehicle and as near the left side as is practicable with red color as described below and aimed straight to the rear, so that it shall be clearly visible to traffic approaching from the rear. Except as specified in Paragraph 3.10 below, such lamps shall be mounted not less than twenty (20) inches and not more than fifty (50) inches above the road level. When mounted on motorcycles or motor scooters this lamp shall be mounted on the rear fender. The tail light shall have a round circle not less than one-half. (½) inch, and not more than one (1) inch in diameter of red color as prescribed for headlights in paragraph 3.02 above. The remainder of the lens shall be painted black or lusterless olive drab.

Exhibit N—(Continued)

"An additional tail or combination tail and stop lamp as described hereinabove shall be securely mounted on the extreme rear of all motor vehicle combinations one hundred (100) inches or more in width as near the right side as is practicable, and at the same height and alignment as the left combination tail and stop lamp.

"Two approved red reflectors may be mounted on all oversized motor vehicles, as hereinabove described, on the extreme rear, and two (2) approved amber reflectors may be mounted on the extreme front, on each side, as low on the vehicles as practicable and in no case higher than thirty (30) inches above the road level.

"3.04. Instrument and Dashboard Lights, Interior and Exterior Lights. Instrument and dashboard lights may be used providing they are of low intensity and do not permit light to be reflected from the interior to the exterior of the vehicle. Interior lights to permit facilitation of passenger ingress and egress may be used only at the time the vehicle is not in motion. Except as authorized by this title of this General Orders, all other lights shall be removed or rendered inoperative.

"3.05. Testing of Lights. The intensity of brightness of red used on headlights and tail lights shall be tested by the brightness meter manufactured by the Western Electric Com-

Exhibit N—(Continued)

pany, by the gauge designed and tested by The Department Engineer, by the Official Headlight Testing Stations operated by the United States Army Ordnance Office, Central Pacific Area, or by other methods approved by the Office of the Military Governor. The size and location of the white light slot, relative to the metal shield, shall be tested by a suitable screen to insure that the headlights conform with specifications set forth herein. This adjustment shall be made by moving the entire headlamp or with the adjusting screws provided for headlight beam adjustment, but the shield position shall not be altered.

"3.06. Trucks of Over 3-ton Rated Capacity. All lights for trucks of over 3-ton rated capacity shall conform to specifications set forth herein, except that the white light slot of the headlights may be increased to one-half (½) inch in width.

"Vehicles in this category may have lights mounted at a height in excess of fifty-five (55) inches measured from the bottom of the slot to road level provided that visual cut-off at the top of the beam on a vertical screen ten (10) feet in front of lamp is at least four (4) inches below the bottom of the horizontal slot and in no case higher than fifty-three (53) inches from road level when the vehicle is carrying a capacity load.

Exhibit N—(Continued)

"3.07. Busses. All lights for busses will conform to specifications set forth herein except that the white light slot of the headlights may be increased to one-half (½) inch in width.

"The route markers on all busses shall be illuminated with a red light of low intensity.

"Interior dome lights of low intensity, approved by the Office of the Military Governor, may be used in each [112] bus, as well as separate red stop light indicators mounted on the rear of all passenger carrying busses. The red tail light need not conform to Paragraph 3.03 above providing a bulb of three (3) candle power or less is used.

"3.08. Fire Department Trucks. All lights on Fire Department trucks shall conform to specifications set forth herein, except that the white light slot of the headlights may be increased to one-half (½) inch in width.

"If needed, Fire Department trucks may use a hooded white spotlight when going to a fire during peaceful times, but when returning from a fire, only the headlights prescribed above will be used. In case of a blitz or other similar situation, no spotlight shall be used. The hood for the white spotlight shall encircle the circumference of the light and shall protrude from the face of the lens horizontally a distance of at least two (2) inches greater than the diameter of the lens of the spotlight.

Exhibit N—(Continued)

"3.09. Ambulances. All lights of ambulances shall conform to specifications set forth herein except that the white light slot of the headlights may be increased to one-half (½) inch in width.

"When responding to emergency calls, ambulances may use a hooded white spotlight during peaceful times, if needed, but when returning to their stations only the headlights prescribed above shall be used. In case of a blitz or other similar situation, no spotlight shall be used. The hood shall encircle the circumference of the spotlight and shall protrude from the face of the lens horizontally a distance of at least two (2) inches greater than the diameter of the lens of the spotlight.

"3.10. Lumber Carriers. Headlights on lumber carriers shall conform to specifications set forth herein, with the following exceptions:

"The white light slot on the headlights may be increased to one-half (½) inch in width.

"With the vehicle on level surface the headlights shall be so adjusted that the bottom of the slot is horizontal and so aimed that the visual cut-off at the top of the beam on a vertical screen thirty (30) feet in front of the lamp is not higher than fifty-three (53) inches from the road level.

"Lumber carriers may have one (1) hooded white spotlight on the front of the carrier, at the top and one (1) hooded spotlight on the

Exhibit N—(Continued)

rear left side, near the seat of the operator. In peaceful times, these spotlights may be used when carrying loads of unusual length (over thirty-five (35) feet), when loading and unloading, and when maneuvering the vehicle in unusually difficult places. In case of a blitz or other similar situation, no spotlight shall be used. The hood shall encircle the circumference on the spotlight and shall protrude from the face of the lens horizontally a distance of at least two (2) inches greater than the diameter of the lens of the spotlight.

"3.11. Road Sweepers. All lights on road sweepers shall conform strictly to specifications set forth herein, except that the white light slot of the headlight may be increased to one-(½) inch in width.

"Road sweepers may be quipped with a hooded spotlight of low power for the purpose of defining the curb line of the road. In case of a blitz or other emergency situation, no spotlight shall be used. The hood shall encircle the circumference of the spotlight and shall protrude from the face of the lens horizontally a distance of at least two (2) inches greater than the diameter of the lens of the spotlight.

"3.12. Police Cars. All lights of police cars shall conform strictly to specifications set forth herein, except that certain police vehicles so authorized by the Chief of Police may use, in addition to the authorized lights, the military

Exhibit N—(Continued)

type blackout driving light positioned on the left side of the vehicle.

"Police cars may be equipped with a hooded white spotlight, which may be used during peaceful times when responding to emergency calls or in other emergency situations. In case of a blitz or other similar situation, no spotlight shall be used. The hood shall encircle the circumference of the spotlight and shall protrude from the face of the lens horizontally a distance of at least two (2) inches greater than the diameter of the lens of the spotlight.

[113]

"3.13. Oversized trucks and trailers now equipped with running marker lights may use such lights providing they are of low intensity and shed only sufficient illumination to outline the vehicles on which they are used.

"3.14. The owner of any motor vehicle, or any paint shop or garage which is equipped to paint and install shields and test headlights, so that they meet specifications set forth herein, is authorized to perform this work.

"3.15. Upon installation, adjustment, painting, or testing of motor vehicle blackout lights, the shop performing the work shall affix a gum sticker to the inside lower right corner of the windshield. If the installation, adjustment, or painting is performed by the owner of any motor vehicle, the same shall be tested by the Official Headlight Testing Stations operated by

Exhibit N—(Continued)

the United States Army Ordnance Office, Central Pacific Area, which shall affix the necessary gum sticker. The sticker shall be not more than one (1) inch wide by two and one-half (2½) inches long. The face of this sticker shall show that the lights have been tested and adjusted. The reverse of the sticker shall be filled in to indicate the date, organization and name of the individual performing the adjustment and test.

"3.16. No person, firm, or corporation shall install shields or paint headlights without performing, or causing to be performed, the proper test and adjustment to meet specifications set forth herein, nor shall any person tamper with the lens or shield of headlights after they have been adjusted, tested, inspected, and approved."

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry

Exhibit N—(Continued)

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.

6 October 1943

General Orders
No. 37

AMENDMENTS TO GENERAL ORDERS

1. Amendment to General Orders No. 6, This Office, 10 March 1943.

1.01. Paragraph numbered 3.09, Title 3, General Orders No. 6, this office, 10 March 1943, hereby is rescinded.

2. Amendment to General Orders No. 2, This Office, 10 March 1943.

2.01. Paragraph number 5.01, Title 5, General Orders No. 2, this office, 10 March 1943, as amended, hereby is amended to read as follows:

"5.01. Each of the following persons hereby is appointed as a Provost Court, and assigned to duty as such in addition to his other duties, for the trial of such persons as may properly be brought before the court, at the respective places as hereinafter designated, viz:

"At Hilo, Hawaii, T. H., and at such other places on the Island of Hawaii, T. H., as the particular Provost Court may direct.

"Col. Arthur C. Huston, Jr., Inf.
Captain Frank W. Hustace, Jr., J.A.G.D.
Captain Woolridge B. Morton, Jr., F.A.

Exhibit N—(Continued)

"At Honolulu and Kaneohe, Oahu, T. H.

"Lt. Col. Eugene V. Slattery, J.A.G.D.

[114]

"At Lihue, Kauai, T. H., and at such other places on the Island of Kauai, T. H., as the Provost Court may direct.

"Lt. Col. Lewis H. Jones, J.A.G.D.

Lt. Col. J. M. Arvey, J.A.G.D.

"At Lanai City, Lanai, T. H., and at such other places on the Island of Lanai, T. H., as the Provost Court may direct.

"Arthur W. Carlson.

"At Wailuku, Maui, T. H., and at such other places on the Island of Maui, T. H., as the Provost Court may direct.

"Captain Kenwood B. Rohrer, J.A.G.D.

"At Kaunakakai, Molokai, T. H., and at such other places on the Island of Molokai, T. H., as the Provost Court may direct.

"Captain Kenwood B. Rohrer, J.A.G.D.

"At Palmyra Island, T. H.

"The Commanding Officer, United States Naval Air Station.

"At Schofield Barracks and Pearl City, Oahu, T. H.

"Lt. Col. Henry DuPree, Inf."

3. Amendment to General Orders No. 14, This Office, 10 March 1943.

Exhibit N—(Continued)

3.01. Paragraph numbered 5.02, Title 5, General Orders No. 14, this office, 10 March 1943, as amended by Paragraph numbered 1.01, Title 1, General Orders No. 23, this office, 11 June 1943, and by Paragraph numbered 2.01, Title 2, General Orders No. 28, this office, 27 July 1943, hereby is amended to read as follows:

"5.02 The following officers are hereby designated District Military Property Comptrollers and also District Internee and Evacuee Property Coordinators in their respective districts:

"Lt. Col. William P. Crum, F.A., District of Kuai; Major John D. Hagon, F.A., District of Maui; Captain Harold P. Luscomb, Inf., District of Hawaii; 1st Lt. Haskell A. Belew, C.M.P., District of Molokai-Lanai."

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry [115]

Exhibit N—(Continued)

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.

27 October 1943

General Orders
No. 39

AMENDMENTS TO GENERAL ORDERS

1. Amendment to General Orders No. 2, This Office, 10 March 1943.

1.01. Paragraph numbered 5.01, Title 5, General Orders No. 2, this office, 10 March 1943, as amended, hereby is amended to read as follows:

"5.01. Each of the following persons hereby is appointed as a Provost Court, and assigned to duty as such in addition to his other duties, for the trial of such persons as may properly be brought before the court, at the respective places as hereinafter designated, viz.:

"At Hilo, Hawaii, T. H., and at such other places on the Island of Hawaii, T. H., as the particular Provost Court may direct.

"Col. Arthur C. Huston, Jr., Inf.
Captain Frank W. Hustace, Jr., J.A.G.D.
Captain Woolridge B. Morton, Jr., F. A.

"At Honolulu and Kaneohe, Oahu, T. H.

"Lt. Col. Eugene V. Slattery, J.A.G.D.

"At Kaneohe Naval Air Station, Oahu, T. H.

"Lt. David H. Klatt, United States Naval Reserve.

Exhibit N—(Continued)

"At Lihue, Kauai, T. H., and at such other places on the Island of Kauai, T. H., as the Provost Court may direct.

"Lt. Col. Lewis H. Jones, J.A.G.D.

Lt. Col. J. M. Arvey, J.A.G.D. [116]

"At Lanai City, Lanai, T. H., and at such other places on the Island of Lanai, T. H., as the Provost Court may direct.

"Arthur W. Carlson.

"At Wailuku, Maui, T. H., and at such other places on the Island of Maui, T. H., as the Provost Court may Direct.

"Captain Kenwood B. Rohrer, J.A.G.D.

"At Kaunakakai, Molokai, T. H., and at such other places on the Island of Molokai, T. H., as the Provost Court may direct.

"Captain Kenwood B. Rohrer, J.A.G.D.

"At Palmyra Island, T. H.

"The Commanding Officer, United States Naval Air Station.

"At Schofield Barracks and Pearl City, Oahu, T. H.

"Lt. Col. Henry DuPree, Inf.

"At United States Navy Yard, Pearl Harbor, Oahu, T. H.

"Lt. Comdr. Arthur L. Mundo, United States Navy."

Exhibit X—(Continued)

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry

—

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.
1 November 1943

General Orders
No. 40

AMENDMENTS TO GENERAL ORDERS

1. Amendments to General Orders No. 10, This Office, 10 March 1943.

1.01. Paragraph 1.01, Title 1, General Orders No. 10, this office, 10 March 1943, hereby is amended to read as follows:

"1.01. The following policies are announced for the information and guidance of employers employing the services of (a) employees of the United States under the War Department or the Navy Department; (b) workers employed on construction and other projects under the War Department or the Navy Department; (c) stevedores and other

Exhibit X—(Continued)

workers employed on docks and dock facilities; and (d) employees of public utilities. The same policies shall be equally applicable to employees of the above-mentioned employing agencies. Nothing herein shall be construed as superseding or in conflict with the provisions of the Fair Labor Standards Act of 1938 or the Walsh Healey Public Contracts Act."

1.02. Paragraph numbered 2.01, Title 2, General Orders No. 10, this office, 10 March 1943, hereby is amended to read as follows:

"2.01. Any person now or hereafter employed by any of the employers to whom reference is made in Paragraph 1.01 and who ceases to be so employed, shall, within two (2) days after ceasing to be so employed, register or re-register at the nearest office of the U. S. Employment Service and shall not accept employment with any other employer in the Territory of Hawaii, regardless of whether such employer is or is not an employer described in Paragraph 1.01, until so directed by the U. S. Employment Service." [117]

1.03. Paragraph numbered 2.02, Title 2, General Orders No. 10, this office, 10 March 1943, hereby is amended to read as follows:

"2.02. Every employer described in Paragraph 1.01 shall notify the nearest office of the United States Employment Service on Form 14-E, Section of Labor Control, Office of the Military Governor, of any employee dropped

Exhibit N—(Continued)

from such employer's pay roll, within two (2) days thereafter."

1.04. Paragraph numbered 3.03, Title 3, General Orders No. 10, this office, 10 March 1943, hereby is amended to read as follows:

"3.03. No employer described in Paragraph 1.01 shall employ or offer to employ an individual formerly, now, or hereafter in the employment of other such employers, unless and until, such individual shall have presented to the employment agency a bona fide release, without prejudice, on Form 14-E, Section of Labor Control, Office of the Military Governor, from his last previous employer, or from the Director of Labor Control and evidence of referral on Form USES 508."

1.05. Paragraph numbered 4.01, Title 4, General Orders No. 10, this office, 10 March 1943, as amended by Paragraph numbered 1.01, General Orders No. 24, this office, 18 June 1943, hereby is amended to read as follows:

"4.01. Revised Wage Schedule No. 9, (Fourth Re-Issue), dated 1 November 1943, and effective at the beginning of the first pay roll period after 1 November 1943, hereby is designated as the standard wage scale, except as noted in Paragraph 4.03, for workers engaged in work on construction and other projects under the War Department or the Navy Department and employers of such other employees

Exhibit N—(Continued).

as may be designated from time to time by the Military Governor. No persons seeking work or employed on construction or other projects under the War Department or the Navy Department, or with other employers designated by the Military Governor, shall be employed at a rate less than, or in excess of, the standard rate for the job as listed in said Revised Wage Schedule No. 9, (Fourth Re-Issue), as now established or as the same may be revised from time to time as approved by the Military Governor."

1.06. General Orders No. 10, this office, 10 March 1943, hereby is amended by adding to Title 4 of said General Orders No. 10 a new paragraph to be numbered and known as Paragraph 4.03, Title 4, General Orders No. 10, Office of the Military Governor, 10 March 1943, and to read as follows:

"4.03. The provisions of contracts, or extensions thereof, between individuals and employers engaged on construction or other projects under the War Department or the Navy Department, relative to wages shall not be abrogated without the written consent of the individual."

1.07. Paragraph numbered 5.03, Title 5, General Orders No. 10, this office, 10 March 1943, as amended by Paragraph numbered 1.01, Title 1, General Orders No. 20, this office, 26 April 1943, hereby is amended to read as follows:

Exhibit N—(Continued)

"5.03. Employees on construction and other projects under the War Department or the Navy Department shall be paid overtime at the rate of one and one-half the regular rate, for overtime in excess of forty (40) hours per week, or in excess of eight (8) hours in any one day, except as noted in Paragraphs 5.08 and 5.09. Where, because of emergency conditions, an employee is required to work for seven consecutive days in any regularly scheduled work-week, a premium wage of double time compensation shall be paid for work on the seventh day. One and one-half regular rate will be paid for work performed on any of the following days only: New Year's day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day and Memorial Day."

1.08. Paragraph numbered 5.06, Title 5, General Orders No. 10, this office, 10 March 1943, hereby is amended to read as follows:

"5.06. For employees engaged on construction and other projects under the War Department or the Navy Department, work shall be so scheduled that all employees shall receive one (1) day off in seven (7). Sunday work per se shall not be considered overtime, and no overtime shall be paid for Sunday except when it is worked consecutively in excess of five (5) days." [118]

Exhibit N—(Continued)

1.09. General Orders No. 10, this office, 10 March 1943, hereby is amended by adding to Title 5 of said General Orders No. 10, two new paragraphs to be respectively numbered and known as Paragraphs 5.08 and 5.09, Title 5, General Orders No. 10, Office of the Military Governor, 10 March 1943, and to read as follows:

"5.08. Persons employed on construction or other projects under the War Department or the Navy Department in connection with derricks, dredges, drill rigs and tugs shall be paid overtime on the basis of one and one-half times the regular rate of pay for hours worked in excess of eight (8) hours in any one day or hours in excess of forty-eight (48) hours per week.

"5.09. The provisions of contracts, or extensions thereof, between individuals and employers engaged on construction or other projects under the War Department or the Navy Department relative to hours of work and overtime shall not be abrogated without the written consent of the individual."

1.10. General Orders No. 10, this office, 10 March 1943, hereby is amended by adding thereto a new title and two new paragraphs to be respectively numbered and known as Title 9, General Orders No. 10, Office of the Military Governor, 10 March 1943, and Paragraphs 9.01 and 9.02, Title 9, General Orders No. 10, Office of the Military Governor, 10 March 1943, and to read as follows:

"9. Subsistence and Quarters.

Exhibit N—(Continued)

"9.01. The provisions of contracts, or extensions thereof, between individuals and employers engaged on construction and other projects under the War Department or the Navy Department relative to subsistence and quarters shall not be abrogated without the written consent of the individual.

"9.02. The practice of furnishing free board and lodging, or cash payment in lieu thereof, to persons employed locally or on new contracts shall be discontinued effective 1 November 1943."

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry [119]

Exhibit N—(Continued)

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.

4 November 1943

General Orders
No. 41

AMENDMENTS TO GENERAL ORDERS

1. Amendments to General Orders No. 7, This Office, 10 March 1943.

1.01. Paragraph numbered 8.01, Title 8, General Orders No. 7, this office, 10 March 1943, hereby is amended to read as follows:

"8.01. There is hereby created and established in the interests of military necessity and public safety, a restricted military area, consisting of the waterfront area of the City and County of Honolulu, Territory of Hawaii, described as follows:"

The waterfront area of Honolulu makai of the following Described Line: Commencing at the ewa mauka corner of Ala Moana and South Streets; thence ewa on Ala Moana Street to an iron fence on the ewa side of premises occupied by the Contractors, Pacific Naval Air Bases; thence along said fence to the makai side of Punchbowl Street; thence to the makai side of Halekauwila Street; thence ewa on Halekauwila Street to the ewa side of Fort Street; thence mauka on Fort Street to the makai side of North Queen Street; thence along

Exhibit N—(Continued)

Queen Street to the waikiki side of Awa Street; thence along Awa Street to the mauka end of Pier 18; thence makai along ewa side of Pier 18 to Pier 19; thence ewa along mauka side of buildings of Pier 19 and across railroad spur to a point ten (10) feet ewa of said railroad spur; thence mauka parallel to railroad spur to makai side of pavement; thence ewa along pavement to Pier 24; thence mauka in front of Oahu Railway and Land Company to Pacific Street; thence [120] along the makai side of Pacific Street; thence mauka across Pacific Street to Honolulu Gas Company, Ltd.; thence around the Honolulu Gas Company, Ltd.'s property; thence along the ewa side of Union Oil Company of California's plant to Hart Street; thence ewa on mauka side of Hart Street to the Kapalama Drainage Canal; thence ewa in a straight line from the waikiki side of the Kapalama Drainage Canal to the waikiki-makai intersection of Kanakanui Street and Libby Street; thence makai along the waikiki side of Libby Street to the waikiki-makai intersection of Libby Street and Auiki Street; thence ewa along the makai side of Auiki Street to the makai side of the Kalihi Receiving Station; thence makai to the Kalihi Channel."

1.02. Paragraph numbered 8.04, Title 8, General Orders No. 7, this office, 10 March 1943, hereby is amended to read as follows:

Exhibit N—(Continued)

"8.04. The employment of enemy aliens in the Restricted Area will be permitted only under conditions prescribed by the Commanding Officer, Army Port and Service Command."

1.03. Paragraph numbered 8.05, Title 8, General Orders No. 7, this office, 10 March 1943, hereby is amended to read as follows:

"8.05. Parking of motor vehicles at any place within the Restricted Area is prohibited, except as may be authorized by the Commanding Officer, Army Port and Service Command."

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry

Exhibit N—(Continued)
Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.
12 November 1943

General Orders
No. 42

AMENDMENTS TO GENERAL ORDERS

1. Amendment to General Orders No. 9, This Office, 10 March 1943.

1.01. Paragraph numbered 12.02, Title 12, General Orders No. 9, this office, 10 March 1943, hereby is amended to read as follows:

"12.02. No person who is not a member of the armed forces of the United States, firm, or corporation shall, within the Territory of Hawaii, send or transmit, cause to be sent or transmitted, attempt to send or transmit, or receive for the purpose of transmitting, by wireless, radio, cable, telegraph, radiotelephone, or telephone to any point, place, or destination outside the Territory of Hawaii, or from any point, place, or destination on an island within the Territory of Hawaii to a point, place, or destination on another island within the Territory of Hawaii, or leave, deliver to, or place with any wireless, radio, cable, telegraph, radiotelephone, or telephone company for the purpose of having it so sent or so transmitted, any information, statement, message, or com-

Exhibit N—(Continued)

munication of any kind or nature, for or on behalf of or at the request, direction, or order of any member of the armed forces of the United States or of any merchant seaman within the Territory of Hawaii. No person, firm, or corporation shall receive within the Territory of Hawaii at the request, direction, or order of any member of the armed forces of the United States or of any merchant seaman any information, statement, message, or communication of any kind or nature which has been transmitted to such person, firm, or corporation, by wireless, radio, cable, telegraph, radiotelephone, or telephone, from a place outside the Territory of Hawaii, or from a place on another island within the Territory of Hawaii other than the [121] island on which such person, firm, or corporation is situated at the time that such information, statement, message or communication is received by said person, firm, or corporation. The provisions of this Paragraph 12.02 shall not be applicable to any member of the Signal Corps of the Army of the United States or of any similar department or agency in any of the other components of the armed forces of the United States, or to any wireless, radio, cable, telegraph, radiotelephone, or telephone company with respect to any information, statement, or message transmitted by any such company in accordance with censorship regulations established by the armed

Exhibit N—(Continued)

forces or other censorship agencies of the United States; nor shall the provisions of this paragraph prohibit a bank within the Territory of Hawaii from providing for the delivery of money to, at, or within a place either within or outside the Territory of Hawaii, for or on behalf of or at the request, direction, or order of any member of the armed forces of the United States or of any merchant seaman within the Territory of Hawaii, provided such member of said armed forces or said merchant seaman for or by whom the said money is so delivered is duly authorized by competent military, naval, or other federal authority to so deliver, or cause to be so delivered, said money."

1.02. Paragraph numbered 13.01, Title 13, General Orders No. 9, this office, 10 March 1943, hereby is amended to read as follows:

"13.01. In order to insure the security of vessels of the United States or of Allied Nations, any merchant seaman on the Island of Oahu desiring to send a cable or radio message shall obtain approval for the filing of such cable or radio message at the office of the District Cable Censor, 1160 Bishop Street, Honolulu, T. H., and any merchant seaman on the Island of Molokai so desiring to send a cable or radio message shall obtain the necessary approval for the filing of such cable or radio message at the office of the field censor located at

Exhibit N—(Continued)

the local Service Command Headquarters, and any merchant seaman on the Islands of Hawaii, Maui, or Kauai desiring to send a cable or radio message shall obtain approval for the filing of such cable or radio message at the office of the field censor located at the main telephone exchange on the island on which such merchant seaman shall be at the time that he proposes to send such message. No merchant seaman shall file any cable or radio message directly with the office of any commercial cable or radio company, or bank, until approval to do so has been first obtained as herein required."

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry [122]

Exhibit N—(Continued)

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.
22 November 1943

General Orders
No. 43

AMENDMENTS TO GENERAL ORDERS

1. Amendment to General Orders No. 2, This Office, 10 March 1943.

~~1.01.~~ Paragraph numbered 3.01, Title 3, General Orders No. 2, this office, 10 March 1943, hereby is amended to read as follows:

"3.01. Provost Courts and Military Commissions shall have jurisdiction and power, and hereby are authorized and empowered, to try and determine any case, matter, or proceeding involving any violation or violations by a civilian or civilians of the rules, regulations, proclamations, or orders of the Military or Naval authorities of the United States, or of the Military Governor of the Territory of Hawaii, or of the laws of war. Such Provost Courts or Military Commissions shall have jurisdiction and power, and hereby are authorized and empowered, to try and punish members of the Armed Forces of the United States for violations of General Orders No. 3, Office of the Military Governor, 10 March 1943, and for violations of any statute of the Territory

Exhibit N—(Continued)

of Hawaii, or of any ordinance, resolution, by-law, regulation, or rule of any city, city and county, county, or other municipal corporation or political subdivision of the Territory of Hawaii, or of any order, regulation, or rule of the Military or Naval authorities of the United States, or of the Military Governor of the Territory of Hawaii, regulating or relating to vehicular or pedestrian traffic; but such Provost Courts and Military Commissions shall have no jurisdiction and power to try and punish members of the Armed Forces of the United States for any violations or offenses other than violations of said General Orders No. 3, or such traffic offenses. The concurrent jurisdiction of the Armed Forces of the United States to court-martial or otherwise discipline commissioned or enlisted personnel of their respective services for violation of said General Orders No. 3 or for such traffic offenses is not withdrawn by anything herein contained. Such Provost Courts and Military Commissions, in addition to the power to impose upon or argainst any such person or persons, [123] either civilians or members of the said Armed Forces of the United States, charged or tried in any such case, matter, or proceeding, by such Provost Courts or Military Commissions, the penalties, forfeitures, and similar punishment otherwise authorized by the General Orders of the Military Governor, shall have power, and hereby

Exhibit N—(Continued)

are authorized and empowered, to punish any such person or persons committing such violation or violations, or offense or offenses, by fine or imprisonment with or without hard labor, or by both such fine and imprisonment, as may be ordered or provided in the General Orders of the Military Governor."

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry

—

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.

22 November 1943

General Orders
No. 44

AMENDMENTS TO GENERAL ORDERS

1. Amendments to General Orders No. 11, This Office, 10 March 1943.

1.01. Title 2, and Paragraph numbered 2.01, Title 2, General Orders No. 11, this office, 10 March 1943, hereby are amended to read as follows:

"2. Property Comptroller.

Exhibit N—(Continued).

"2.01. There hereby is created the Office of the Property Comptroller which shall be an agency of the Office of the Military Governor. The holder of said office will be appointed by the Military Governor and hereby is designated as the Property Comptroller of the Office of the Military Governor.

1.02. Paragraphs numbered 2.02, 2.03, 2.04, 2.05, 2.06, and 2.07, Title 2, General Orders No. 11, this office, 10 March 1943, hereby are rescinded.

1.03. General Orders No. 11, this office, 10 March 1943, hereby is amended by adding to Title 2 of said General Orders No. 11, four new paragraphs to be respectively numbered and known as Paragraphs 2.02, 2.03, 2.04 and 2.05, Title 2, General Orders No. 11, Office of the Military Governor, 10 March 1943, and to read as follows:

"2.02. The Property Comptroller hereby is directed to administer the policy of the Military Governor in regard to the security and settlement of property belonging to persons interned, evacuated or otherwise separated from their property by military order. [124]

"2.03. All plans for ~~action~~ whereby civilians are removed or separated from their property by military order will be cleared with the Property Comptroller before action is taken.

"2.04. In all instances of internment or evacuation by military order where reasonable property settlements cannot be immediately accomplished, or where it is felt that extraordinary

Exhibit N—(Continued)

loss will result from internment or evacuation, or where attempts are being made to exploit the fact of internment or evacuation, the Property Comptroller will be notified by any person or persons having an interest in such property.

"2.05. The Property Comptroller and his assistants are agents of the Military Governor only and regardless of certain administrative assistance provided by his office, the Property Comptroller and his assistants will not be held agents of, nor responsible to, any person separated or removed from his property by military order."

1.04. Title 3, and Paragraphs numbered 3.01, 3.02, 3.03, and 3.04, Title 3, General Orders No. 11, this office, 10 March 1943, hereby are rescinded.

1.05. General Orders No. 11, this office, 10 March 1943, hereby is amended by adding thereto a new title and six new paragraphs to be respectively numbered and known as Title 3, General Orders No. 11, Office of the Military Governor, 10 March 1943, and Paragraphs 3.01, 3.02, 3.03, 3.04, 3.05, and 3.06, Title 3, General Orders No. 11, Office of the Military Governor, 10 March 1943, and to read as follows:

"3. Impounded Property.

"3.01. All civilian and military components, except Provost Courts and Military Commissions, which have taken possession of, commandeered, confiscated, or otherwise received or shall hereafter take possession of, commandeer, confiscate or otherwise receive property of any

Exhibit N—(Continued)

kind or nature, pursuant to the General Orders issued by the Office of the Military Governor or the rules, regulations, proclamations or orders of other competent Military or Naval authorities of the United States, shall give receipt therefor in the following form:

.....

(Issuing Agency)
Honolulu, T. H.
No. .....
Date .....

This certifies that the undersigned has received from .....
(Name of Individual) (Address)
the following articles which were surrendered in accordance with military Orders:

.....

(Signature of Agent Receiving)

"3.02. The receipt shall contain adequate description of each item of property it covers, be made in duplicate, numbered, dated and signed by the Receiving Agent. The original of the receipt shall be issued to the owner of the property described thereon or the person from whom the property was received; the duplicate of the receipt shall contain the following additional statement which shall be signed by the owner or person surrendering the property:

Exhibit N—(Continued)

I hereby certify that the above is a complete list of articles which I have surrendered to the Agency indicated on this date.

.....

(Signature of Owner)

"3.03. Each civilian or military component which has received or shall receive property as in Paragraph [125] 3.01 above, shall prepare in triplicate a list of all such property showing each item received and the number of the receipt issued therefor. One copy of such list shall be delivered to the Military Depository having or to have actual possession of the property along with the property or as soon as possible thereafter if the property has already been delivered. One certified copy of such list shall be delivered by the Military Depository together with the duplicates of all receipts issued by the Agency concerned to the Property Comptroller. The Property Comptroller shall return all duplicate receipts to the Military Depository having actual possession of the property. Each item of property shall have attached thereto a tag or other identification mark showing the name of the owner and the number of the receipt issued therefor.

"3.04. Receipts shall be issued and lists made for all property taken since 7 December 1941. Where the owner is not known, such fact shall be certified by a Responsible Au-

Exhibit N—(Continued)

thority of the issuing Agency on the original and duplicate of the receipt. Every effort shall be made by Agencies receiving property in the first instance to locate the owner thereof and obtain his verification.

"3.05. After the property has been properly tagged, the duplicates of the receipts representing property in possession of each Military Depository shall be filed in numerical order and held by it. Each such Military Depository shall prepare and keep on file a complete inventory of all alien property held by it, in addition to the above mentioned list, and shall note on said inventory its estimate of the present value of each item thereon and the estimate of a qualified appraiser if available.

"3.06. It is the purpose of this procedure to establish accountability so that there will be available complete records for the settlement of all claims in connection with the property so taken, confiscated, commandeered, or otherwise received."

2. Amendments to General Orders No. 14, This Office, 10 March 1943.

2.01. Paragraph numbered 1.09, Title 1, General Orders No. 14, this office, 10 March 1943, hereby is amended to read as follows:

"1.09. Property Comptroller. The property Comptroller will carry out the functions set forth in Titles 2 and 3, of General Orders No.

Exhibit N—(Continued)

11, this office, 10 March 1943, and any amendments or additions thereto."

2.02. Paragraph numbered 1.10, Title 1, General Orders No. 14, this office, 10 March 1943, hereby is rescinded.

2.03. Paragraph numbered 5.01, Title 5, General Orders No. 14, this office, 10 March 1943, hereby is amended to read as follows:

"5.01. The following appointments to the offices indicated hereby are made:

"Commander Ernest Gray, U.S.N.R., Director of Cargo and Passenger Control;

Lt. Comdr. Eugene B. Connell, U.S.N.R., Director of the Central Identification Bureau;

Mr. John R. Mead, Director of Labor Control;

Captain Dwight H. Lowrey, F. A., Property Comptroller."

2.04. Paragraph numbered 5.02, Title 5, General Orders No. 14, this office, 10 March 1943, as amended, hereby is amended to read as follows:

"5.02. The following officers hereby are designated District Property Comptrollers in their respective districts:

"Lt. Col. William P. Crum, F.A., District of Kauai;

Major John D. Hagon, F.A., District of of Maui; [126]

Exhibit N—(Continued)

Captain Harold P. Luscomb; Inf., District of Hawaii;

1st Lt. Haskell A. Belew, C.M.P., District of Molokai-Lanai."

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry

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Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.
4 December 1943

General Orders
No. 45

AMENDMENTS TO GENERAL ORDERS

1. Amendment to General Orders No. 6, This Office, 10 March 1943.

1.01. Paragraph numbered 1.01, Title 1, General Orders No. 6, this office, 10 March 1943, hereby is amended to read as follows:

"1.01. The term "enemy alien," "enemy aliens," "alien enemy," or "alien enemies," as used in this General Orders or in any other General Orders of the Military Governor, un-

Exhibit N—(Continued)

less the use thereof in such General Orders clearly indicates otherwise, shall include, and hereby is defined to mean, all natives, citizens, denizens, or subjects of Japan, Germany, or of any other nation or government hostile to the United States, who are within the Territory of Hawaii and not actually naturalized within the United States, provided, however, that the term "enemy alien," "enemy aliens," "alien enemy," or "alien enemies," as used in Paragraphs 4.01, 4.02, 4.03, 4.04, and 4.08, Title 4, and Paragraph 5.03, Title 5, General Orders No. 3, Office of the Military Governor, 10 March 1943, and as used in Paragraph 2.02, Title 2, General Orders No. 6, Office of the Military Governor, 10 March 1943, shall not include nor mean any Korean or any person of Korean ancestry or of Korean racial extraction."

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry [127]

Exhibit N—(Continued)

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.

19 December 1943

General Orders
No. 46

AMENDMENTS TO GENERAL ORDERS

1. Amendments to General Orders No. 2, This Office, 10 March 1943.

1.01. Paragraph numbered 5.01, Title 5, General Orders No. 2, this office, 10 March 1943, as amended, hereby is amended to read as follows:

"5.01. Each of the following persons hereby is appointed as a Provost Court, and assigned to duty as such in addition to his other duties, for the trial of such persons as may properly be brought before the court, at the respective places as hereinafter designated, viz.:

"At Hilo, Hawaii, T. H., and at such other places on the Island of Hawaii, T. H., as the particular Provost Court may direct.

"Col. Arthur C. Huston, Jr., Inf.
Captain Frank W. Hustace, Jr., J.A.G.D.

"At Honolulu and Kaneohe, Oahu, T. H.
"Lt. Col. Alfred F. Newkirk, A. C.
Lt. Col. Eugene V. Slattery, J.A.G.D.

"At Kaneohe Naval Air Station, Oahu, T. H.
"Lt. David H. Klatt, United States Naval Reserve.

Exhibit N—(Continued)

"At Lihue, Kauai, T. H., and at such other places on the Island of Kauai, T. H., as the Provost Court may direct.

"Lt. Col. Lewis H. Jones, J.A.G.D.

Lt. Col. J. M. Arvey, J.A.G.D. [128]

"At Lanai City, Lanai, T. H., and at such other places on the Island of Lanai, T. H., as the Provost Court may direct.

"Arthur W. Carlson.

"At Waïluku, Maui, T. H., and at such other places on the Island of Maui, T. H., as the Provost Court may direct.

"Captain Kenwood B. Rohrer, J.A.G.D.

"At Kaunakakai, Molokai, T. H., and at such other places on the Island of Molokai, T. H., as the Provost Court may direct.

"Captain Kenwood B. Rohrer, J.A.G.D.

"At Palmyra Island, T. H.

"The Commanding Officer, United States Naval Air Station.

"At Schofield Barracks and Pearl City, Oahu, T. H.

"Lt. Col. Henry DuPree, Inf.

"At United States Naval Yard, Pearl Harbor, Oahu, T. H.

"Lt. Comdr. Arthur L. Mundo, United States Navy."

Exhibit N—(Continued)

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry

—

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.

20 December 1943

General Orders
No. 47

AMENDMENTS TO GENERAL ORDERS

1. Amendments to General Orders No. 3, This Office, 10 March 1943.

1.01. Title 1, and Paragraphs numbered 1.01 and 1.02, Title 1, Paragraphs numbered 2.01, 2.15, and 2.16, Title 2, Paragraphs numbered 3.01 and 3.07, Title 3, and Paragraphs numbered 4.01, 4.02, 4.03, 4.04, 4.05, and 4.06, Title 4, General Orders No. 3, this office, 10 March 1943, hereby are amended to read as follows:

"1. "Definitions."

"1.01. The term "hours of blackouts," "during the hours of blackout," "blackout," or similar language, as used in this General

Exhibit N—(Continued)

Orders or in any other General Orders of the Military Governor, unless the use thereof in such General Orders clearly indicates otherwise, shall include and hereby is defined to mean, that period of time between ten o'clock P. M. of one day and five-thirty o'clock A. M. of the following day.

"1.02. The term "hours of darkness" as used in this General Orders, or in any other General Orders of the Military Governor, unless the use thereof in such General Orders clearly indicates otherwise, shall include and hereby is defined to mean that period of time between one-half (½) hour after sunset and the commencement of the hours of blackout at ten o'clock P. M., and that period of time between five-thirty o'clock A. M. and one-half (½) hour before sunrise.

"2.01. Except as may other wise be authorized in this General Orders or in any other General Orders of the Military Governor, or except as otherwise first may be authorized by the Military Governor of the Territory of Hawaii, no person, firm, or corporation shall, at any time during the hours of darkness or during the hours of blackout, use or operate within a building a source of light which, or the light from which, is visible from the outside [129] of the said building, other than a lamp bulb authorized by Paragraphs numbered 2.02 and 2.03. Title 2, General Orders No. 3, this

Exhibit N—(Continued)

office, 10 March 1943, or use or operate a source of light outside a building.

"2.15. As used in this General Orders or in any other General Orders of the Military Governor, unless the use thereof in such General Orders clearly indicates otherwise, the term "source of light," shall include, and hereby is defined to mean, (1) any glass inclosed filament, gas mantle, fluorescent or neon tube, arc light, or other light generating element, actually operating on an electric circuit or by illuminating gas, open flame, or otherwise, together with all inclosing or translucent material, or (2) the bright or reflecting portion of any reflector, lens, mirror, or luminaire, which is or can be used, or operates, to control or diffuse light, and the term "light" shall include, and hereby is defined to mean, any light or illumination produced, caused, generated, transmitted, or diffused by a source of light as herein defined. Nothing contained in this Paragraph numbered 2.15 shall be construed to repeal, rescind, or expressly or impliedly amend or to be applicable in any way to any part, portion, or provision of Paragraphs numbered 2.02 to 2.05, inclusive, Title 2, General Orders No. 3, this office, 10 March 1943.

"2.16. Any person, firm, or corporation may use or operate a source of light or more than one source of light, or display a light or lights, until ten o'clock P. M., within a building, re-

Exhibit N—(Continued)

gardless of whether or not such building be used as a dwelling house, or for business, professional, social, or recreational purposes, and regardless of the amount of illumination thereof and the fact that the same may be visible from the outside of said building. Any person, firm, or corporation may also use or operate a source of light or more than one source of light or display a light or lights within such a building from five-thirty o'clock A. M. until one-half (½) hour before sunrise, although such source or sources of light or lights are visible from the outside of said building in which the same are used, operated, or displayed, and regardless of the amount or degree of illumination thereof, provided that such source of light or said light or lights being so used or displayed between five-thirty o'clock A. M. and one-half (½) hour before sunrise are not then visible from the sea. Any person, firm, or corporation may use or operate such a source or sources of light outdoors, or display such a light or lights outdoors, from the commencement of the hours of darkness until nine o'clock P. M., in order to furnish illumination for outdoor recreation facilities and events and for purposes other than such recreational facilities or events until ten o'clock P. M., provided that such source or sources of light are not visible above the horizontal and are not directly visible from

Exhibit N—(Continued)

the sea, and provided, further, that they are not used for ornamental purposes or for the purposes of advertising. Traffic signal lights and street lights shielded as the Military Governor may direct may be used at full strength at all times during the hours of blackout. Maximum lighting in the interior of busses and trains is authorized. No person, firm, or corporation shall use or operate outdoors during the hours of darkness or during the hours of blackout any source of light for ornamental or advertising purposes.

"3.01. No person shall drive or operate any motor vehicle during the hours of darkness or during the hours of blackout unless said motor vehicle shall conform to the specifications as set forth in the following paragraphs of this title, except that United States Army motor vehicles equipped with standard United States Army blackout lights are not required to conform to said specifications.

"3.07. Busses. All lights for busses will conform to specifications set forth herein except that the white light slot of the headlights may be increased to one-half (½) inch in width.

"The route markers on all busses shall be illuminated with a red light of low intensity.

"Separate red stop light indicators mounted on the rear of all passenger carrying busses may be used. The red tail lights need not con-

Exhibit N—(Continued)

form to Paragraph 3.03 above, providing a bulb or three (3) candle power or less is used.

[130]

"4.07. Except as is hereinafter authorized by Subparagraph 7, Paragraph 4.03, no enemy alien shall be present on the streets and highways, in parks, and on beaches, either on foot or in vehicles, during the hours of blackout.

"4.02. Except as is hereinafter authorized, no person shall be present on the streets and highways, in parks, and on beaches either on foot or in vehicles, during the hours of blackout.

"4.03. The following classes of persons are excepted from the restrictions of Paragraph 4.02 above:

Personnel of the Armed Forces of the United States and allied nations on duty or proceeding to and from duty;

Law enforcement officers on duty, and going to and from duty.

Civilian personnel required to be on the streets and highways during such hours because of their employment on defense work, by public utilities, in civilian defense activities, or by the government, or while proceeding directly to and from work;

Doctors on call;

Persons holding Police passes issued since December 7, 1941;

Persons holding special passes issued and

Exhibit N—(Continued)

approved by the Provost Marshal, Military Police, or Civilian Police; and

Enemy aliens transported in motor vehicles during the hours of blackout by drivers of non-enemy ancestry upon written approval of the Provost Marshal.

"4.04. No person may drive, operate, or ride as a passenger in, a motor vehicle on the streets and highways within the Territory of Hawaii, during the hours of blackout unless duly authorized to do so by or pursuant to the General Orders of the Military Governor or otherwise first authorized by the said Military Governor. No person authorized pursuant to this Paragraph numbered 4.04 shall drive a motor vehicle during the hours of blackout unless said motor vehicle shall conform with all blackout regulations of the Military Governor relating to equipment for and manner of operation of such motor vehicle.

"4.05. Twenty Miles Speed Limit. Except as authorized by the civil or military police, no person shall operate any vehicle at a rate of speed in excess of twenty (20) miles per hour during the hours of darkness or during the hours of blackout.

"4.06. No Parking. No person shall park any vehicle on any public thoroughfare, street, or highway, during the hours of darkness or during the hours of blackout."

Exhibit N—(Continued)

2. Rescission of Provisions of General Orders.

2.01. Paragraph numbered 2.17, Title 2, and Paragraphs numbered 5.03 and 5.05, Title 5, General Orders No. 3, this office, 10 March 1943, hereby are rescinded.

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry [131]

—

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.

12 January 1944

General Orders
No. 48

AMENDMENTS TO GENERAL ORDERS

1. Amendments to General Orders No. 3, This Office, 10 March 1943.

1.01. Paragraph numbered 3.07, Title 3, General Orders No. 3, this office, 10 March 1943, hereby is amended to read as follows:

"3.07. Busses. All lights for busses will conform to the specifications set forth herein except that the portion of the lens of the headlights of

Exhibit N—(Continued)

busses below the metal shield or hood described in this General Orders need not be painted, provided, however, that the extended forward edge of the shield or hood of the headlights of such busses shall be parallel to and fixed at least eleven-sixteenths (11/16) of an inch below the horizontal center line of the headlight lens.

"The route markers on all busses shall be illuminated with a red light of low intensity.

"Separate red stop light indicators mounted on the rear of all passenger carrying busses may be used. The red tail lights need not conform to Paragraph 3.03 above, providing a bulb of three (3) candle power or less is used."

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry [132]

Exhibit N—(Continued)

Territory of Hawaii.
Office of the Military Governor
Iolani Palace
Honolulu, T. H.

20 January 1944

General Orders
No. 49

AMENDMENTS TO GENERAL ORDERS

1. Amendments to General Orders No. 2, This Office, 10 March 1943.

1.01. Paragraph numbered 5.01, Title 5, General Orders No. 2, this office, 10 March 1943, as amended, hereby is amended to read as follows:

"5.01. Each of the following persons hereby is appointed as a Provost Court, and assigned to duty as such in addition to his other duties, for the trial of such persons as may properly be brought before the court, at the respective places as hereinafter designated, viz.:

"At Hilo, Hawaii, T. H., and at such other places on the Island of Hawaii, T. H., as the particular Provost Court may direct.

"Col. Arthur C. Huston, Jr., Inf.
Captain Frank W. Hustace, Jr., J.A.G.D.

"At Honolulu and Kaneohe, Oahu, T. H.
"Lt. Col. Alfred F. Newkirk, A.C.
Lt. Col. Eugene V. Slattery, J.A.G.D.

"At Kaneohe Naval Air Station, Oahu, T. H.
"Lt. David H. Klatt, United States Naval Reserve.

Exhibit N—(Continued)

"At Lihue, Kauai, T. H., and at such other places on the Island of Kauai, T. H., as the Provost Court may direct.

"Lt. Col. Lewis H. Jones, J.A.G.D.

Lt. Col. J. M. Arvey, J.A.G.D. [133]

"At Lanai City, Lanai, T. H., and at such other places on the Island of Lanai, T. H., as the Provost Court may direct.

"Arthur W. Carlson.

"At Wailuku, Maui, T. H., and at such other places on the Island of Maui, T. H., as the Provost Court may direct.

"Captain Kenwood B. Rohrer, J.A.G.D.

"At Kaunakakai, Molokai, T. H., and at such other places on the Island of Molokai, T. H., as the Provost Court may direct.

"Captain Kenwood B. Rohrer, J.A.G.D.

"At Palmyra Island, T. H.

"The Commanding Officer, United States Naval Air Station.

"At Schofield Barracks and Pearl City, Oahu, T. H.

"Lt. Col. Henry DuPree, Inf.

"At United States Navy Yard, Pearl Harbor, Oahu, T. H.

"Lt. Col. James C. Bigler, United States Marine Corps.

Lt. Comdr. Arthur L. Mundo, United States Navy."

Exhibit N—(Continued)

By order of the Military Governor of the Territory of Hawaii:

s/ WM. R. C. MORRISON
Colonel, J.A.G.D.
Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry

—

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T. H.

24 January 1944

General Orders
No. 50

AMENDMENTS TO GENERAL ORDERS

1. Amendments to General Orders No. 3, This Office, 10 Mareh 1943.

1.01. Paragraphs numbered 3.01, 3.02, 3.05, 3.06, 3.07, 3.08, 3.09, 3.10, 3.11, and 3.12, Title 3, General Orders No. 3, this office, 10 March 1943, hereby are amended to read as follows:

"3.01. No person shall drive or operate any motor vehicle at any time during the hours of darkness or during the hours of blackout unless headlights shall be installed, maintained, and used on said motor vehicle in conformity with the specifications and provisions set forth in the following paragraphs of this Title.

Exhibit N—(Continued)

"3.62. Headlights. When motor vehicles are driven at any time during the hours of darkness or during the hours of blackout, two (2) approved blackout driving headlights constructed, installed, and maintained as herein required, shall be used on each motor vehicle, except on motorcycles and motor scooters, which shall have but one (1) headlight. Such headlights shall have the necessary color design as described below. Each headlight shall be covered by a metal shield or hood as described below. The mounting height of said headlight shall be not less than twenty-four (24) inches nor more than fifty-five (55) inches measured from road level to the extended forward edge of the said shield or hood of the headlight, and in no case higher than the top of the rim of the steering wheel. With the vehicle on level surface and carrying a capacity load, the headlight unit shall be so adjusted that the extended forward edge of the shield or hood of the headlight of such vehicle shall be parallel to and fixed at at least eleven-sixteenths (11/16) inch below the horizontal center line [134] of the headlight lens and so aimed that the visual cutoff at the top of the beam on a vertical screen ten (10) feet in front of the headlight is at least four (4) inches below the extended forward edge of the shield or hood of the headlight of such vehicle and in no instance higher than fifty-one (51) inches from the road level.

Exhibit N—(Continued)

When mounted on motorcycles or motor scooters the headlight shall be placed on the front as near the center as possible to normal line of operator's vision and far enough forward to eliminate any objectionable reflection of light from any portion of the vehicle.

"All that portion of the headlight lens above the junction of the headlight lens with the shield or hood shall be painted black, or lusterless olive drab, except that where such upper portion of such headlight is now painted a deep red color, said color shall be of brightness of three (3) and not exceeding 3.5 foot lamberts, and said red colored paint may be retained until such time as repainting is necessary. Paint shall be sprayed on such upper portion of such headlight instead of brushing thus producing an even surface. The portion of the headlight lens of such vehicle below the junction of the headlight lens with the shield or hood described in this General Orders need not be painted.

"Metal Shield or Hood. The metal shield or hood over the headlight lens shall be twenty (20) to twenty-eight (28) gauge sheet metal, extending from side to side of the headlight. The extended forward edge of the shield or hood of such headlight shall be parallel to and fixed at at least eleven-sixteenths (11/16) inch below the horizontal center line of the head-

Exhibit N—(Continued)

light lens, and shall be tightly clamped to the outer rim of the headlight. At the center of the vertical axis of light, the shield or hood shal have an angle of from forty-five (45) to seventy (70) degrees from the vertical axis at the face of the headlight lens and sloped downward so that the outer edge of the shield or hood shall be at least one and three-quarters (1-¾) inches and not more than two and one-half (2-½) inches from the headlight lens at the narrowest part of the shield or hood. The outer edge of the shield or hood shall be folded back approximately three-eighths (⅜) inch to provide stiffness for the shield or hood. The ends of the shield or hood shall be closed and extended sufficiently back into the headlight to provide a clip to hold the shield or hood in position on the headlight. The inner face of the shield or hood, or face on the lens side, shall be made to fit snugly to the curvature of the lens. Due to the various types of headlights now in use on vehicles, the curvature of the shield or hood shall be cut to fit each individual type of headlight lens. The shield or hood edge, when in proper position, shall give the adjustment prescribed in Paragraph 3.02, supra. The shield or hood shall be painted black or lusterless olive drab on the exterior and interior surfaces. Suitable mastic shall be applied around the circumference of the headlight lens at the junction of the headlight

Exhibit N—(Continued)

lens with the retaining rim and between the outer face of the shield or hood and headlight lens, to properly shield any light at these points.

"3.05. Testing of Lights. The intensity of brightness of red used on headlights and tail lights shall conform to the specifications set forth in Paragraph 3.02, supra, and shall be tested by the brightness meter manufactured by the Weston Electric Company, by the gauge designed and tested by the Department Engineer, by the official headlight testing stations operated by the United States Army Ordnance Office, Central Pacific Area, or by other methods approved by the Office of the Military Governor. The direction of the beam of the headlight relative to the metal shield or hood, shall be tested by suitable screen to insure that the headlight conforms to specifications set forth herein. This adjustment shall be made by moving the entire headlight or with the adjusting screws provided for headlight beam adjustment, but the shield or hood portion shall not be altered.

"3.06. Trucks of Over 3-Ton Rated Capacity. All lights for trucks of over 3-Ton rated capacity shall conform to the specifications set forth herein, except that vehicles in this category may have lights mounted at a height in excess of fifty-five (55) inches measured from the road level to the extended forward edge of the shield or hood of the headlight, provided

Exhibit N—(Continued)

that visual cut-off at the top of the beam on a vertical screen ten (10) feet in front of headlight is at least four (4) inches below the extended forward edge of the shield of hood of the headlight of such vehicle, and in no instance higher than fifty-three (53) inches from the road level when the vehicle is carrying a capacity load. **[135]**

"3.07. Busses. All lights for busses shall conform to the specifications set forth herein.

"The route markers on all busses shall be illuminated with a red light of low intensity.

"Separate red stop light indicators mounted on the rear of all passenger carrying busses may be used. The red tail lights need not conform to Paragraph 3.03, supra, providing a bulb of three (3) candle power or less is used.

"3.08. Fire Department Trucks. All lights on Fire Department trucks shall conform to specifications set forth herein. If needed, Fire Department trucks may use a hooded white spotlight when going to a fire, but when returning from a fire, only the headlights prescribed above will be used, provided, however, that in the case of a blitz or other similar situation, no spotlight shall be used. The hood for the white spotlight shall encircle the circumference of the light and shall protrude from the face of the lens horizontally a distance of at least two (2) inches greater than the diameter of the lens of the spotlight.

Exhibit N—(Continued)

"3.09. Ambulances. All lights on ambulances shall conform to specifications set forth herein. When responding to emergency calls, ambulances may use a hooded white spotlight, if needed, but when returning to their stations, only the headlights prescribed above shall be used, provided, however, that in case of a blitz or other similar situation, no spotlight shall be used. The hood shall encircle the circumference of the spotlight and shall protrude from the face of the lens horizontally a distance of at least two (2) inches greater than the diameter of the lens of the spotlight.

"310. Lumber Carriers. Headlights on lumber carriers shall conform to specifications set forth herein. With the vehicle on level surface the headlights shall be so adjusted that the extended forward edge of the shield or hood of the headlight is horizontal and is so aimed that the visual cut-off at the top of the beam on a vertical screen thirty (30) feet in front of the headlight is not higher than fifty-three (53) inches from the road level when the vehicle is carrying a capacity load.

"Lumber carriers may have one (1) hooded white spotlight on the front of the carrier, at the top and one (1) hooded spotlight on the rear left side, near the seat of the operator. These spotlights may be used when carrying loads of unusual length (over thirty-five (35) feet), when loading and unloading, and when

Exhibit N—(Continued)

maneuvering the vehicle in unusually difficult places, provided, however, that in case of a blitz or other similar situation, no spotlight shall be used. The hood shall encircle the circumference of the spotlight and shall protrude from the face of the lens horizontally a distance of at least two (2) inches greater than the diameter of the lens of the spotlight.

"3.11. Road Sweepers. All lights on road sweepers shall conform to specifications set forth herein. Road sweepers may be equipped with a hooded spotlight of low power for the purpose of defining the curb line of the road, provided, however, that in case of a blitz or other emergency situation, no spotlight shall be used The hood shall encircle the circumference of the spotlight and shall protrude from the face of the lens horizontally a distance of at least two (2) inches greater than the diameter of the lens of the spotlight.

"3.12. Police Cars. All lights on police cars shall conform to specifications set forth herein. Police cars may be equipped with a hooded white spotlight, which may be used when responding to emergency calls or in other emergency situations, provided, however, that in case of a blitz or other similar situation, no spotlight shall be used. The hood shall encircle the circumference of the spotlight and shall protrude from the face of the lens horizontally

Exhibit N—(Continued)

a distance of at least two (2) inches greater than the diameter of the lens of the spotlight."

[136]

2. Amendment to General Orders No. 14, This Office, 10 March 1943.

2.01. Paragraph numbered 5.02, Title 5, General Orders No. 14, this office, 10 March 1943, as amended, hereby is amended to read as follows:

"5.02. The following officers hereby are designated District Property Comptrollers in their respective districts:

"Lt. Col. William P. Crum, F.A., District of Kauai; Major John D. Hagon, F.A., District of Maui; Captain Harold P. Luscomb, Inf., District of Hawaii;

1st Lt. John V. Beveridge, C.M.P., District of Molokai-Lanai."

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D. Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry

Exhibit N—(Continued)

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T.H.

17 February 1944

General Orders
No. 51

AMENDMENTS TO GENERAL ORDERS

1. Amendment to General Orders No. 3, This office, 10 March 1943.

1.01. Paragraph numbered 4.05, Title 4, General Orders No. 3, this office, 10 March 1943, as amended by paragraph numbered 1.01, Title 1, General Orders No. 47, this office, 20 December 1943, hereby is amended to read as follows:

"4.05. Twenty-Five Miles Speed Limit. Except as authorized by the civil or military police, no person shall operate any vehicle at a rate of speed in excess of twenty-five (25) miles per hour during the hours of darkness or during the hours of blackout."

By the order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D. Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry [137]

Exhibit N—(Continued)

Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T.H.

23 February 1944

General Orders
No. 52

AMENDMENTS TO GENERAL ORDERS

1. Amendments to General Orders No. 3, this office, 10 March 1943.

1.01. Paragraph numbered 2.11, Title 2, General Orders No. 3, this office, 10 March 1943, hereby is amended to read as follows:

"2.11. Flashlights. Flashlights may be used, either indoors or outdoors, at any time or times, during the hours of darkness and blackout, subject, however, to the provisions of this paragraph and to the other provisions of this General Orders. Military police, members of the United States Navy Shore Patrol, and civilian police officers are authorized to use flashlights with red or orange light, during said hours, either indoors or outdoors, while engaged in the performance of their official duties. Air Raid Wardens and Fire Wardens are authorized to use flashlights with a green light during said hours, either indoors or outdoors, while engaged in the performance of their official duties as such wardens. No person other than a member of the military police, or a member

Exhibit N—(Continued)

of said shore patrol, or such a civilian police officer engaged in the performance of official duties as aforesaid, shall use a flashlight with a red or orange light at any time during said hours of darkness and blackout, nor shall any person other than an Air Raid Warden or Fire Warden engaged in the performance of official duties as aforesaid, use a flashlight with a green light at any time during the said hours of darkness and blackout. Any person may use a flashlight with a white light, either indoors or outdoors, during said hours of darkness and blackout."

1.02. Paragraph numbered 3.03, Title 3, General Orders No. 3, this office, 10 March 1943, as amended, hereby is amended to read as follows: [138]

"3.03. No person, at any time or times during the hours of darkness and blackout, shall use or operate a tail light or lamp, or combination tail and stop light or lamp, or any other light on the rear of a vehicle, which allows a white light, a red light, or a light of any color to shine upward. Otherwise than as provided in the preceding sentence, and subject to territorial laws, city and county ordinances, and county ordinances, a person may use, at any time or times during the hours of darkness and blackout, the tail light or lamp or tail lights or lamps, or a combination tail and stop light or lamp and other lights and lamps on

Exhibit N—(Continued)

the rear of a vehicle, regardless of the color, brightness, or quantity of light emanating therefrom."

1.03. Paragraph numbered 4.06, Title 4, General Orders No. 3, this office, 10 March 1943, as amended, hereby is amended to read as follows:

"4.06. No Parking. No person shall park any vehicle, nor allow or permit any vehicle owned by him or in his care, control, or custody to be or remain parked, on any public thoroughfare, street, or highway, at any time or times, during the hours of blackout."

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D. Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry

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Territory of Hawaii
Office of the Military Governor
Iolani Palace
Honolulu, T.H.

2 March 1944

General Orders
No. 53

AMENDMENTS TO GENERAL ORDERS

1. Amendment to General Orders No. 1, This Office, 10 March 1943.

Exhibit N—(Continued)

1.01. General Orders No.1, this office, 10 March 1943, hereby is amended by adding thereto a new title and a new paragraph to be respectively numbered and known as Title 3, General Orders No. 1, Office of the Military Governor, 10 March 1943, and Paragraph 3.01,Title 3, General Orders No. 1, Office of the Military Governor, 10 March 1943, and to read as follows:

"3. Assistant Executive to the Military Governor for Cargo and Passenger Control.

"3.01. Wayne C. Smith, Colonel, Infantry, hereby is appointed Assistant Executive to the Military Governor for Cargo and Passenger Control."

By order of the Military Governor of the Territory of Hawaii:

/s/ WM. R. C. MORRISON
Colonel, J.A.G.D. Executive

A True Copy:

ROBERT B. GRIFFITH
Major, Infantry [139]

EXHIBIT O

Provost Court Proceedings
In Session
Pearl Harbor, T. H. 29 February 1944

Name of accused: Lloyd Clifford Duncan, #116086 Residence: Citizenship: USA

Age: Where Employed: Descent: (father) (Mother)

Witnesses for Prosecution:

Witness for Accused: Copy of charge furnished accused.

Documentary Evidence:

Arresting Officer: Cpl. Bowerman, USMC

Charge: General Orders #2, Paragraph 8.01

That Lloyd Clifford Duncan, at Pearl Harbor, T. H., on the 24th day of February, A. D., 1944, did unlawfully, wilfully and maliciously assault, strike, beat and ill treat Robert C. Bowerman, Corporal U.S.M.C., and J. C. Hunter, PFC, USMC., with intent to resist, prevent, hinder and obstruct the said Robert C. Bowerman and J. C. Hunter in the lawful discharge, execution and performance of their official duties as sentries at the Main Gate, Navy Yard, Pearl Harbor, T. H., contrary to General Orders #2, Par. 8.01 of the Military Governor, Territory of Hawaii. (10 March 1943).

(Signature of Accuser)

/s/ LT. (JG) GENE A. TRINI

Lt. (JG) Gene A. Trini

AFFIDAVIT

Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above-named accuser this 29 day of February A.D. 1944, and made oath that he is a person subject to military law and that he personally signed the foregoing charge and had investigated the matters set forth in the charge, and that the same are true in fact, to the best of his knowledge and belief.

/s/ ARTHUR L. MUNDO
Lt. Comdr., U. S. Navy (Ret)
Provost Court

Case No. P.H. 650-44

The Charge	Plea	Findings	Sentence or Acquittal or Remarks
Foregoing			Summons Issued for 3-1-44
			Continued to 3-2-44
	Not guilty	guilty	6 months confinement

Pearl Harbor, T. H. 29 February 1944
/s/ ARTHUR L. MUNDO
Lt. Comdr., U. S. Navy (Ret)
Provost Court [140]

EXHIBIT P

(Copy).

Provost Court
Meeting at Navy Yard Pearl Harbor
Territory of Hawaii

THE MILITARY GOVERNOR OF THE TERRITORY OF HAWAII

Versus

LLOYD CLIFFORD DUNCAN
Accused.

PENAL SUMMONS:

The Military Governor of the Territory of Hawaii:
To Lloyd Clifford Duncan, #116086

On information of Lt. (jg) Gene A. Trini

You are commanded to appear at the Provost Court of Pearl Harbor, at Bldg. #69, Navy Yard, Pearl Harbor, T. H., on Wednesday the 1st day of March A. D., 1944, at 8:30 AM, then and there to answer the charge of violating General Order #2, Para 8.01

Failure to obey this summons will render you liable to attachment for contempt.

Given Under My Hand This 29 day of February A. D., 1944.

By Order of the Military Governor of the Territory of Hawaii:

By /s/ ARTHUR L. MUNDO
Lt. Comdr. U. S. Navy (Ret)
Provost Court meeting at
Pearl Harbor, T. H.

29 March 1944

Certified to be a true copy
/s/ GEORGE C. KREIS
Clerk, Provost Court, Pearl
Harbor, T. H. [141]

(If the accused is found, the officer making the return must use this form of service)
Served the within Summons on Lloyd Clifford Duncan therein named, by handing him a copy thereof and at the same time showing him the original, at 10:00 PM this 29th day of February A. D., 1944.
/s/ SGT. W. A. JOHNS
Police Officer.

EXHIBIT Q

Provost Court,
Pearl Harbor, T. H.
March 2nd, 1944.

P. H. 650-44—LLOYD CLIFFORD DUNCAN

The defendant, Duncan, having been previously arraigned and having plead not guilty, and having been asked by the Court if he desired counsel, and if he had witnesses, appeared on this date for trial, and the following proceedings were had:

Court: Q. I asked you yesterday if you had any witnesses and you said that you had two Mainland friends, but that their ship had left. Is that right?

A. Yes, sir.

Q. Are you ready to proceed?

A. Yes, sir.

Court: After the officers have testified you will be privileged to make a statement if you wish, or you may remain silent.

Upon the defendant's statement that he so desired to do, he and the two witnesses for the prosecution were duly sworn.

The prosecution began:

Q. Bowerman, state your full name to the Court.

A. Robert Carl Bowerman, USMC, Reserve.

Q. As to your duties at this time—will you give a short resume of them?

A. I was regularly posted as Corporal of the Guard from 2000 to 2400 at the Main Gate, Pearl Harbor, Navy Yard.

Q. Directing your attention to the 24th day of

Exhibit Q—(Continued)

February A. D., 1944, did you have duty as Corporal of the Guard at the Main Gate on that day?

A. Yes, sir.

Q. On that day did you have occasion to come in contact with the defendant, Duncan?

A. Yes, sir.

Q. Is he in Court at this time?

A. Yes, sir.

Q. Will you point him out.

A. He is on my left.

(Witness pointed out defendant in Court)

—1— [142]

Q. Now, directing your attention once more to the 24th day of February, 1944, did you have an altercation or a disagreement with the defendant, Duncan? A. Yes, sir.

Q. You were on duty at that time?

A. Yes, sir.

Q. Explain the circumstances in your own words surrounding your coming in contact with this defendant.

Well, sir, Duncan and a sailor friend, Wietus, came up to the gate at approximately 2210 or 2215, and Wietus said he wanted to know if he could get a truck to take him back to his ship that was tied up at Pearl City. I told him that he would not be permitted to enter the Navy Yard as his ship was berthed at Pearl City, and there was only transportation for ships in the Navy Yard. Do you want to hear the obscene part of it, Sir?

Court: Tell everything you know about this.

Exhibit Q—(Continued)

Continuing—While I was talking, Duncan was standing by and he said: "You fuckin marines are trying to give my buddy some shit." I looked at him and then turned my back to him, and he kept on, and then I said: "Why don't you shove off and let me handle this?" Then he said: "I don't have to shove off and I know you God-dam marines are going to fuck my buddy up." I told him that there was no bus going to his ship tied up at Pearl City and that Wietus could not enter the Yard. He started cursing me again, and then I walked up to him,—it was the first time that I had come close to him,—and I noticed that his face was flushed and his eyes were bloodshot and I could smell rum or whiskey on his breath. He was standing in the middle of the intersection swearing at me in a loud voice. There was traffic coming in at the time, a lot of officers and Navy nurses were coming in at that time, and I was expecting the Captain of the Yard and Admiral Ghormley. Then I told him he was under arrest for interfering with my duty and using profane language, and he said: "Fuck you, you can't arrest me because I'm a civilian." I saw that his badge was around his neck, but it was turned over or hidden so that I could not see it. I walked up to him to take his badge for identification—we always have to secure the badges of those we arrest, and he swung at me and missed me, so I took him by the arm to get him out of the intersection, because the traffic was tied up and there were people watching and a lot of congestion and confu-

Exhibit Q—(Continued).

sion. I asked him to give me his badge and he said: I am not going to give you my badge, and he struck me in the mouth.

Q. With his right hand or his left hand?

A. His right hand come up and struck me in the mouth.

Q. One time?

A. Yes, sir—one time he missed, and then he swung and hit me. Then Pfc Hunter jumped in to help me subdue him. He jerked loose and he hit me again below the eye, and he hit Hunter several times. [143]

Q. The left eye?

A. Yes, sir. There is just a little mark there now. All the time he was cursing and yelling that if he ever got loose he was going to kill us. I finally got his badge from him.

—2—

When he said I am not going to give you my badge —you Son-of-a-bitches are not getting this badge— at that time there were three Jeeps that pulled up and there were a lot of people. Pfc Legge, of the Yard Patrol, was in one of the Jeeps and heard him tell me to go to hell, and that he was going to kill us and all kinds of profane words too numerous to mention. Finally I got his badge away from him and then we took him over to the side out of the traffic and I told him to sit down, and he said: "I don't have to sit sit down. I am a civilian, not a service man." He finally sat down. All the time

Exhibit Q—(Continued)

he was calling us filthy names and he said if he ever met up with me he would kill me.

Q. Bowerman, prior to this altercation did you have occasion to put the defendant under arrest at the time you told him to shove off?

A. No, sir. I told him to shove off and then I turned my back to him.

Q. At that time you were allowing the defendant to go to his work, or else shove off?

A. Yes, sir. We always allow people to go on in after we check the badges. Usually, if they say something out of the way and we tell them to shove off they will do it.

Q. Did he do either one—proceed on into the Navy Yard, or else leave the gate?

A. No sir. He stood right there and argued with me in the middle of the intersection after I told him to step over to the side. When we put a man under arrest we always take their badge numbers right away.

Q. Did this happen at the Main Gate, Navy Yard, Pearl Harbor, T. H.?

A. Yes, sir.

Q. Did you have occasion to wrestle with him on the pavement?

A. We had to take him off the intersection.

Q. Did he resist you at that time?

A. Yes, sir, he was swinging at me.

Q. Did you see him hit Pfc Hunter?

A. Yes, sir. He was right next to me. He struck Hunter with his fist. He was swinging at

Exhibit Q—(Continued)

both of us while we were trying to get him to go over to the side. [144]

Q. Hunter was in the performance of his duty at the time?

A. Yes, sir.

Q. Did you have occasion to hit this man in any way during this altercation?

A. No, sir, we did not.

Q. You never injured him in any way?

A. No, sir.

Q. Simply told him to shove off and when he resisted you merely took him in custody?

A. Yes, sir.

Q. During the altercation did the people commence surrounding the scene and there was a lot of congestion?

—3—

A. Yes, there was a lot of congestion. There were a good many civilian workers coming in—it was the third shift—and there were a lot of service men pulling in and we blocked the traffic for quite a ways back.

Q. This altercation took your attention and also took Pfc Hunter's attention away from your duties?

A. Yes, sir. It broke up our system out there. One man is supposed to check bicycles, and he had to check both the bicycles and pedestrians while this was going on.

Q. Had the defendant been drinking?

A. Yes, sir, but I believe he would pass the sobriety test. His breath had a strong smell of rum

Exhibit Q—(Continued)

or alcohol. His eyes were blood shot and his face flushed. He could stand on his two feet and take care of himself. He walked up to the Sentry.

Prosecution: Thats all, Your Honor.

Court: (To defendant)—You may ask the witness any questions.

A. I have nothing to say to him.

The prosecution continued:

Q. State your full name to the Court.

A. Pfc James C. Hunter, USMC.

Q. You are in the USMC Reserve?

A. Yes, sir.

Q. You are also stationed at the Main Gate, Navy Yard, Pearl Harbor, T. H.?

A. Yes, sir. [145]

Q. You were on duty at the Main Gate on the 24th day of February, A. D., 1944?

A. Yes, sir, on duty with the Corporal of the Guard.

Q. You had occasion during the performance of your duties to come in contact with the defendant, Duncan?

A. Yes, sir. At that time I was checking incoming vehicles, and the defendant came up to me and asked me what we were going to do with his buddy. I told him I didn't have no time to fool around with him, and that I thought Bowerman knew what he was doing and would take care of him, and I went on checking cars. Then I saw Bowerman having some trouble with him and I went over to give him a hand. We did not strike him at any

Exhibit Q—(Continued)

time. I had him by one arm and Bowerman had him by the other arm. We were trying to get him over to the side. He struck Bowerman two times and he kicked me in the shins a number of times. He called Bowerman a Son-of-a-bitch and used violent language. About that time the Yard Patrol pulled up.

Q. Hunter, were there people standing around to hear the profanity at that time?

A. Yes, sir.

Q. Were you in close proximity to Bowerman to hear Bowerman say to either shove on or else go into the Gate?

A. Yes, sir. He came by me and asked me if my buddy was

—4—

giving him some shit, and I told him I thought he knew what he was doing.

Q. Do you know whether Bowerman put him under arrest?

A. Yes, sir. He put him under arrest.

Q. Did you try to assist Bowerman in the arrest of this defendant?

A. No, sir. Bowerman had already placed him under arrest.

Q. Thats when the defendant struck and kicked you?

Q. Prior to the time of this altercation did you see Bowerman grab hold of defendant's badge and swing and wrestle him around?

A. No, sir. At no time did Bowerman injure

Exhibit Q—(Continued)

or hit him. He never took hold of his badge until he was under arrest. When he asked him for his badge he told him that no God-dam marine was going to get his badge.

Q. Did either you or Bowerman strike or injure him prior to this altercation?

A. No, sir. [146]

Q. Did you see any club——

Court: Refrain from leading questions.

Q. What condition, or in what manner did you take hold of the defendant when he resisted arrest?

A. This man had already swung at Bowerman. Bowerman was trying to make him sit down. He struck Bowerman, and I went over and helped Bowerman sit him down. I had hold of his shoulder with my left hand and had ahold of his arm with my right hand—thats when he struck me.

Court: Q. Have you told everything you know about this—is that the whole story?

A. Yes, sir.

Court: (To defendant).

Q. Do you wish to ask this man any questions?

A. No, sir.

Prosecution rests:

Court: As I indicated before, you may at this time make a statement if you wish, or you may let the case rest upon the prosecution's evidence. If you wish to make a statement you have the right to do so.

Defendant: I would like to clear up a few details. My friend and I came through the gate. I

Exhibit Q—(Continued)

was going to work and he wanted to get a truck that would take him to his ship that was berthed at Pearl City. I asked some marine—I don't know who it was—where he could get transportation. The marine told him that he could not go to his ship that way. He was very discourteous about it. I told him not to pay any attention to the marine, because I knew he could catch a truck back to the ship—and he did. Then this marine——

Q. Which marine?

A. I don't know which one. I didn't pay any attention to the marine. The one marine came over and started arguing about

—5—

it—said that he could not get to his ship that way—he would have to go to Pearl City. I told him that this friend of mine wanted to catch the truck. This marine, he was getting pretty sore and abusive about it. Of course, I knew I was in the wrong—then he grabbed for my badge like he was going to tear it off, and I slipped to one knee and he pulled my badge off over my head. Then another fellow came over and took hold of me. He asked me to come over to the gate and sit down, which I did. I never resisted them at any time. This man said I was drinking, thats why they had a Navy Doctor examine me, and he pronounced me completely sober. [147]

Prosecution:

Q. You mean Corporal Bowerman?

A. No, the Navy Doctor.

Exhibit Q—(Continued)

Q. Is there anything else you wish to add?

A. Just the fact that they kept me here from 10:00 that night until 3:00 o'clock the next afternoon, and they never gave me anything to eat or drink. That I finally had a chance to make a statement. I lost $20.00 in pay for being off work. It seemed kind of unreasonable. The Navy Doctor examined me and he said I was completely fit. There was no purpose in my being kept here.

Court: (To prosecution)

Q. Do you wish to ask any questions?

The prosecution continued:

Q. Duncan, you do admit that when one of these marines told Wietus that he could not come in through the gate you told him that he did not know what he was talking about?

A. Yes, but I did not use profanity.

Q. After that you were arguing and using obscene language?

A. It was just about a 50-50 proposition there.

Q. At that time you had been drinking?

A. Yes, the day before was my day off.

Q. Had your friend been drinking also?

A. Yes, he had.

Q. You were told to shove off and you started arguing with the marine?

A. No, I never was talking to this marine. I never pay any attention to what marines do. I was just going right on to work.

Q. You do admit that you hit Corporal Bowerman with your fist?

Exhibit Q—(Continued)

A. When he grabbed my badge and pulled it off over my head I may have resisted or thrown up my arm. They said back there that I struck and hit with my fist—that seems kind of foolish because I was there all alone. Then they told me to sit down, which I did. Then they started roughing me up. I don't know if one purposely hit my nose with his club.

Q. You did not know whether it was purposely or accidental?

A. No, I don't know. He had it in his hand. I was not resisting—I went where they told me, and I gave them my

—6— [148]

identification. If he had asked me for my badge I would have given it to him. I guess I was not moving fast enough for him.

Q. That was when you started to fight and resist?

A. I didn't like to be kicked around like that. I was not even talking to the marines in the first place. I was all ready to go to work and mind my own business.

Q. You didn't mind your own business in the first instance?

A. I knew I was wrong—that if anything happened I would be wrong.

Q. That is all.

Court: Q. Do you wish to offer any rebuttal?

Prosecution: A. No, sir.

Court: Q. Where do you live, Mr. Duncan?

Exhibit Q—(Continued)

A. 2188 Kuhio Avenue, Honolulu.

Q. How old are you?

A. Twenty five.

Q. Where are you employed?

A. In the Pearl ~~Harbor Navy~~ Yard.

Q. In what Department?

A. Shop 11. Shipfitters' Shop.

Q. What is the descent of your father?

A. Scotch.

Q. Your mother?

A. Scotch-Irish.

Q. How long have you been out here?

A. A little over two years.

Q. Been working in the Navy Yard that long?

A. Yes, sir.

Q. Have you ever been in trouble before?

A. Just minor things—blackout violation.

Prosecution:

Q. Did you have a previous record about some cigarettes?

A. I had some Sea Store cigarettes.

Court: Q. Is there anything that you wish to tell the Court before I pronounce sentence?

A. No, sir. I have said all that I have to say.

Court: I find that the charges have been sustained by the evidence and pronounce you guilty. This appears to me to be a pretty serious case. I sentence you to six months confinement. [149]

EXHIBIT R

Mitt. Number PH 6-44
Case Number PH 650-44

Provost Court of Pearl Harbor, City and County of Honolulu
Territory of Hawaii

MITTIMUS

The Territory of Hawaii:

To the High Sheriff of the Territory of Hawaii, or his Deputy; the Sheriff of the City and County of Honolulu, or his Deputy; Lloyd Clifford Duncan having been convicted in the Provost Court of Honolulu, City and County of Honolulu, of the Offense of, to wit:

> General Order #2 Paragraph 8.01
> The Lloyd Clifford Duncan, at Pearl Harbor, T. H., on the 24th day of February 1944, did unlawfully, wilfully and maliciously assault strike, beat and ill treat Robert C. Bowerman, Corporal USMC, and J. C. Hunter, Pfc, USMC, with intent to resist prevent, hinder and obstruct the said Robert C. Bowerman and J. C. Hunter in the lawful discharge, execution and performance of their official duties as sentries at the Main Gate, Navy Yard, Pearl Harbor, T. H., contrary to General Orders #2 Paragraph 8.01 of the Military Governor of the Territory of Hawaii (10 March 1943)

and by said Court on this day sentenced to be imprisoned in the Honolulu Jail for the term of Six

(6) Months and to pay a fine of ..... Dollars, or to be imprisoned in the Honolulu Jail until said Fine be paid:

You Are Ordered to take said Lloyd Clifford Duncan into your custody, and to cause said sentence to be executed. Hereof fail not.

Given Under My Hand This 2nd day of March, A. D., 1944.

/s/ ARTHUR L. MUNDO
Lt. Comdr. US Navy. (Ret)
Provost Court

[Endorsed]: Filed March 20, 1944. [150]

[Title of District Court and Cause.]

TRAVERSE

Your petitioner, Lloyd C. Duncan, files this, his traverse to the return and answer to the Order to Show Cause filed by respondent, Duke Paoa Kahanamoku, sheriff of the city and county of Honolulu, and says:

I.

That your petitioner denies all of the material allegations therein set forth or as much thereof as is relevant to the issues in this case except those allegations which admit facts set forth in his petition and except those allegations which are expressly admitted herein;

II.

That petitioner admits: the allegations contained in Paragraphs I-1, 2 and 3 and Paragraph II-1, 2, 3 and 4; and admits the existence of war with Japan and Germany; that Hawaii is a powerful base with vast numbers of military and naval personnel, vast military, naval and civilian stores, munitions, equipment and supplies for waging war (Par. II-6); the exchange of radiograms between the Governor of Hawaii [152] and the President; petitioner admits (without conceding their validity) the issuance of the proclamations and general orders referred to in said return and answer;

III.

Answering Paragraphs I-4 and 8, petitioner says that he was first summoned to appear before the provost court on March 1, 1944 and did appear on said day but the case was postponed until March 2, 1944 because the witnesses for the prosecution were absent; that he was brought to trial on March 2, 1944, shortly before 9 A. M., immediately after his work on a ten hour graveyard shift; that at the time he was tired, dirty and wholly unpresentable; that he was was wholly unaware of his legal and constitutional rights, unaware of General Orders No. 2, paragraph 8.01; that he did not know of the lack of lawful authority of the provost court to try him for the alleged offense, was unaware of the necessity of being represented by counsel, was ignorant of his rights to have the trial continued until witnesses could attend and testify in his behalf, was unaware

of the right to have the compulsory attendance of witnesses and that therefore did not with full knowledge and understanding of his legal and constitutional rights waive the assistance of counsel or waive the right to object to the jurisdiction of the provost court or waive the right to a constitutional trial; that at said hearing the prosecutor, the two marines and himself lined up standing in a row and with no one present to advise or assist petitioner in any of his aforesaid rights and at the conclusion of a perfunctory hearing lasting approximately ten minutes he was sentenced to six months in the county jail and then taken from the courtroom.

[153]

IV.

Answering Paragraph 8 of the return, petitioner admits that his trial was for an alleged violation of General Orders No. 2, paragraph 8.01, but says that said order did not constitute an offense for which he could be tried by provost court under the Constitution and laws of the United States and that even if the violation of said order did constitute an offense triable before a military tribunal under the Constitution and laws of the United States that petitioner did not in fact violate said order and that the actual existence or nonexistence of the facts which might constitute a violation of said order is a jurisdictional fact and that the provost court is not and cannot be the conclusive judge of its own jurisdiction; petitioner further says that at most the offense for which he could be lawfully tried is the offense of assault and battery under R.S. 5346,

U.S.C. title 18, sec. 455 which cases are regularly tried in this court; petitioner further denies the existence of any military necessity for his trial in said provost court;

V.

That your petitioner denies the lawful existence of the office of military governor of the Territory of Hawaii at any time from December 7, 1941 to date and says that a military government and a military governor can only exist, under the Constitution and laws of the United States, over the inhabitants, lands and property of the enemy or allied or domestic territory recovered from enemy occupation or rebels treated as belligerent and that this fact is well known to the military and naval services and is expressly set forth in the Rules of Land Warfare FM 27-10 (1940) and the official [154] United States Army and Navy Manual of Military Government and Civil Affairs, 22 December 1943, FM 27-5, OPNAV-50E-3, Section 1, and the attempt by the subordinates of the alleged military governor to enact laws, and to provide for the trial, conviction, sentence and imprisonment of petitioner, insofar as they relate to the facts of this case, is contrary to the Federal Constitution and wholly void;

VI.

That petitioner denies that the Territory of Hawaii is now or for more than a year has been in imminent danger of invasion as that expression is used in Section 67 of the Hawaiian Organic Act and petitioner denies that the public safety now or for

more than a year prior to his trial, has required that the privilege of the writ of habeas corpus be suspended or that the Territory be placed and remain under martial law; that Hawaii is not now and for a long period prior hereto has not been within any combat area or in imminent danger of invasion and that the combat area in the Pacific to the best of petitioner's knowledge is now more than 2,000 miles west of the Territory of Hawaii;

Wherefore, your petitioner reiterates the allegations of this petition and prays that the court make the following findings of fact and rulings of law:

(1) That the office of military governor is nonexistent and that the orders issued out of said office with respect to the erection of provost courts purporting to give said provost courts jurisdiction to hear and determine the offense of which petitioner was charged are null and void;

(2) That the proclamation of the governor of the [155] Territory of Hawaii does not purport to suspend the privilege of the writ of habeas corpus in cases of this character;

(3) That as a matter of fact the Territory of Hawaii is not now and for more than a year prior hereto has not been in imminent danger of invasion;

(4) That as a matter of fact the public safety does not now and has not for more than a year prior hereto require that the privilege of the writ of habeas corpus be suspended;

(5) That martial law has not lawfully existed in the Territory of Hawaii for more than a year prior to petitioner's trial;

(6) That as a matter of law the privilege of the writ of habeas corpus has not been suspended as to this case;

(7) That whether or not martial law is now in effect and the privilege of the writ of habeas corpus is now suspended in certain cases involving military security, there exists no military necessity for the trial and conviction in a provost court of petitioner for the acts of which he was tried, convicted and sentenced as set forth in the petition;

Wherefore, your petitioner prays that he may be forthwith discharged from all custody and restraint; that he may be granted his freedom and liberty and that his bond given herein be cancelled.

Dated: Honolulu, Hawaii, April 4, 1944.

/s/ LLOYD C. DUNCAN,
Petitioner. [156]

Territory of Hawaii
City and County of Honolulu—ss.

Lloyd C. Duncan, being first duly sworn under oath deposes and says that he is the petitioner named in the foregoing Traverse; that he has read the same, knows the contents thereof and that the same is true to the best of his knowledge, information and belief.

/s/ LLOYD C. DUNCAN.

Subscribed and sworn to before me this 4 day of April 1944.

/s/ FLORENCE LEE,

Notary Public, First Judicial Circuit, Territory of Hawaii.

My commission expires June 30, 1945.

[Endorsed]: Filed April 4, 1944. [157]

[Title of District Court and Cause.]

WRIT

The President of the United States to Duke Paoa Kahanamoku, Sheriff of the City and County of Honolulu, Territory of Hawaii.

Greeting:

We command you that you have the body of Lloyd C. Duncan by you imprisoned and detained as it is said together with the time and cause of such imprisonment and detention, by whatsoever name he shall be called or charged before the District Court of the United States for the Territory of Hawaii in the Federal Court, Federal Building, Honolulu, on the 31st day of March, 1944, at 10:40 o'clock A. M., to do and receive what then and there shall be considered concerning the said Lloyd C. Duncan and have you then and there this writ.

Witness the Honorable D. E. Metzger, Judge of the United States District Court for the Territory of Hawaii.

(Signed) WM. F. THOMPSON, JR.
Clerk, United States District Court for the Territory of Hawaii.

The foregoing is hereby allowed this 31st day of March, 1944.

(Signed) D. E. METZGER.
United States District Judge.

[159]

United State's Marshal's Office
Marshal's Return

The within Writ was received by me on the 31st day of March, A.D. 1944 and is returned executed this 31st day of March, A.D., 1944 upon Duke Paoa Kahanamoku, Sheriff of the City and County of Honolulu, Territory of Hawaii by exhibiting to him the original Writ and by handing to and leaving with him a certified copy of the same.

Dated at Honolulu, T. H. this 31st day of March, A.D. 1944.

(Signed) OTTO F. HEINE,
U. S. Marshal, District of Hawaii.

Civil	7-408
Marshal's	Docket
No. 2455	
Court No.	H.C. 298
Fees	$2.00
Expenses	
Total	$2.00

[Endorsed]: Filed Mar. 31, 1944. [160]

[Title of District Court and Cause.]

FINDINGS AND CONCLUSIONS

Before argument of counsel on the issues of this case was begun the court made the following announcement and rule:

The questions in this case are not whether Lloyd C. Duncan created a disturbance on a naval reservation where he was employed, or whether he committed an assault on marine guards or was assaulted by marine guards, or whether he had a fair trial before an army provost court, in accordance with late day practice before such courts, or whether he was unjustly found guilty and given an inordinately severe sentence upon the offense charged, or whether he was mistreated by the sheriff in being forced to perform hard labor when the mittimus under which the sheriff took him in custody did not impose hard labor, nor whether the sheriff has any lawful right or power to assign

hard labor upon a prisoner taken by him into the city and county jail, even had the mittimus demanded it.

These questions were of passing interest during the trial and much testimony was offered as to some of them, but all of them are considered immaterial and irrelevant to the predominant and controlling question presented in [162] the case, and all evidence relating to them will be disregarded. It is now ordered stricken.

The question here is: Has a Provost Court, set up in the Navy yard at Pearl Harbor, Oahu, under an order of October 27, 1943, of "the Military Governor of the Territory of Hawaii," lawful power to try and convict a civilian residing outside of any naval or military reservation, of violation of an order of the Military Governor of March 10, 1943, committed on a naval reservation with respect to naval personnel?

The Provost Court in question was set up by the appointment by General Orders No. 39 of October 27, 1943, emanating from the Office of the Military Governor at Honolulu, designating Lt. Comdr. Arthur L. Mundo, United States Navy, as a Provost Court at U. S. Navy Yard, Pearl Harbor, Oahu, T. H. and assigning him to duty "for the trial of such persons as may properly be brought before the court."

The main question is involved in and brings forward several other questions, one of underlying and vital importance being:

Did the Office of Military Governor of the Terri-

tory of Hawaii lawfully exist at the time it appointed Lt. Comdr. Mundo as a Provost Court at Pearl Harbor Navy Yard?

This question is directly at issue and to my mind a determination of it disposes of the entire case.

In considering this question we must go back to the day when Japan's forces attacked Pearl Harbor, December 7, 1941, upon which day Governor Poindexter issued a proclamation declaring that the Hawaiian Islands were attacked and invaded by the armed forces of the Empire of Japan, and that public safety required the suspension of the privilege of the writ of habeas corpus until further notice, also placing the Territory under martial law, and further, requesting the [163] Commanding General in the Hawaiian Department to exercise all the powers normally exercised by him, as Governor during the existing emergency and until the danger of invasion was removed. The Governor in his proclamation then went further and said he authorized and requested the Commanding General and his subordinate personnel to whom he might delegate such authority, during the emergency and until the danger of invasion was removed, to exercise the powers normally exercised by judicial officers, and employees of the Territory and the counties and cities therein, and such other and further powers as the emergency may require. The Governor presumed, and stated, that he acted under authority of the provisions of Section 67 of the Organic Act, which says:

"Sec. 67. Enforcement of law. That the Gov

ernor shall be responsible for the faithful execution of the laws of the United States and of the Territory of Hawaii within the said Territory, and whenever it becomes necessary he may call upon the commanders of the military and naval forces of the United States in the Territory of Hawaii, or summon the posse comitatus, or call out the militia of the Territory to prevent or suppress lawless violence, invasion, insurrection, or rebellion in said Territory, and he may, in case of rebellion or invasion, or imminent danger thereof, when the public safety requires it, suspend the privilege of the writ of habeas corpus, or place the Territory, or any part thereof, under martial law until communication can be had with the President and his decision thereon made known." 48 U.S.C.A. 532.

Under color of the Governor's relinquishment and transfer of the powers and duties placed upon and required of him by this and other sections of the Organic Act, the Army took over and established what it called the Office of Military Governor. The Commanding General (Lt. General, Walter C. [164] Short) issued a proclamation of his own in which he said:

"I announce to the people of Hawaii, that, in compliance with the above request of the Governor of Hawaii, I have this day assumed the position of Military Governor of Hawaii, and have taken charge of the Government of the Territory, of the preservation of order therein, and of putting these islands in a proper state of defense."

* * * * *

"The imminence of attacks by the enemy and the possibility of invasion make necessary a stricter control of your actions than would be necessary or proper at other times. I shall therefore shortly publish ordinances governing the conduct of the people of the Territory with respect to the showing of lights, circulation, meetings, censorship, possession of arms, ammunition, and explosives, the sale of intoxicating liquors and other subjects."

This form of military government continued without abatement until March 10, 1943, during which time more than 180 General Orders were issued from the Office of the Military Governor regulating the acts and affairs of the population of the islands and the management of their property in many particulars.

On August 17, 1942, Ingram M. Stainback was inducted into office as Governor of the Territory, succeeding Governor Poindexter who had abdicated to the Army command on December 7, 1941.

The evidence shows that at the time or shortly after his inauguration to office Governor Stainback became convinced that there existed no right or reason for the continuation of the suspension of the writ of habeas corpus or the continuation of martial law in any form; that he went to the National Capitol for the purpose of discussing this situation with the Department of the Interior and the Department of Justice in the hope of having military govern- [165] ment removed and civil government fully restored; that he was met there by General Emmons then Commander of the Hawiian Divi-

sion, and later found the War Department officials adamant in the contention that military government should be continued here as a military need, particularly in the control of labor. That, after more than a month of frequent, almost daily, conferences between officials of the Departments of Interior, Justice, and War, a compromise was agreed upon, which he says was to restore about ninety-five per centum of the civil government to civil administration, in accordance with laws; that he deemed it impossible to convince all of the three departments in conference of the merits of his contentions and concluded that a half-loaf was better than none at all.

Accordingly upon his return here he issued, on February 8, 1943, a Proclamation, the form of which had been prepared and agreed upon by the conferees at Washington. This proclamation sets forth a Whereas, that the Governor of Hawaii on December 7, 1941, placed the Territory under martial law and the President confirmed that action on December 8, 1941, and then recites a Whereas that such state of martial law continues in effect and the privilege of the writ of habeas corpus remains suspended. The Proclamation then proclaimed, under the stated authority given by Section 67 of the Organic Act:

1. That, "The Governor of Hawaii and the other civilian officers and agencies of the Federal, the Territorial and the local governments, will resume on the thirtieth day hereafter their respective jurisdictions, functions and powers, according to law,

with respect to the following matters, and others necessarily related thereto:"

2. Thereafter are enumerated and listed eighteen general and specific classes of activities, including [166] "Judicial proceedings, both criminal and civil," which are to be performed, according to law.

Now, one feature of this proclamation has been construed by this Court, that relating to the suspension of the writ of habeas corpus and that question is in a category somewhat akin to res judicata, more scientifically described as stare decisis.

There remains the question: was martial law likewise revoked and brought to an end by the Governor's said proclamation, or, had it already ceased to lawfully exist by reason of the change in conditions respecting imminent danger of invasion.

The Governor testifies that he was emphatically of opinion that it should be revoked absolutely as, in his judgment, based upon surrounding and prevailing facts and conditions there existed no necessity that could support it, but that it was the agreed intention of the Washington conferees, in which he joined for policy reasons, that military government should be abolished only in part and that a part of it, which General Richardson calls a modified form of martial law, should remain in force and effect.

General Richardson comes into court and testifies at considerable length that in his opinion the continuation of martial law is absolutely necessary, in its present form as a modified military government in his hands for the safety of the population here

and in the proper prosecution of war efforts. He argues in his testimony that he should have control over the civilian population in this area as well as the armed forces and have full authority to establish the control courts for enforcing his orders relating to certain civilian acts and conduct. In support of the legality of martial law he states his opinion to be that Hawaii is and has been continuously since December 7, 1941, in imminent and constant danger of attack by Japanese agencies of warfare. [167]

Admiral Nimitz agrees with General Richardson as to the possibility of some form of warfare attacks and as to the desirability and expedience of retaining the present military government.

Both gentlemen, however, agree that an invasion by enemy troops is now practically impossible.

With due respect to the opinions of General Richardson and Admiral Nimitiz that martial law is desirable and necessary in a field of war operations that distributes supplies, trains soldiers, marines and sailors, and is a seat of administration of war activities, I find myself bound not by their opinions, but by the laws of the land, in arriving at legal conclusions.

The United States of America, of which Hawaii is an integral part, are governed by constitutionally established laws, laws to which their people are entitled, as well as being subjected—primarily, the national Constitution, and secondarily, the laws enacted by the Congress. It is a matter of general

knowledge that the people, with few exceptions, wish to protect and perpetuate that system, and such purpose is an issue in the present war. Some countries in Europe have tried a dictator system where the dictator could peremptorily pronounce laws and the rights of the subject to life and liberty, as he and his self-appointed courts and executives might decide from time to time. Many views have been advanced that such is the correct and efficient system for successfully conducting war, but that system is now on its way out. It is the antithesis of Americanism and nothing short of riotous conditions and dissolution of lawfully constituted government can justify it in civilian affairs of the land.

Civil affairs and civil government extend, to operation of law, to the battle zone of military camps, even in time of war and, for many purposes, inside military reservations, particularly where civilians are concerned. [168] Camp followers and civilians attached to military war activities do, as to certain of their acts, come absolutely under military control and are subject to military law and court martial for certain offenses and disobediences when serving in the field of battle. No part of the Island of Oahu in the Territory of Hawaii is in a battle field today, nor has it been for over two years, nor was the petitioner serving the Army in the field. These facts were fully shown by evidence. The Navy has recently been given similar authority

by Congress, but not in Hawaii, except as to Midway, Palmyra, and Johnston islands.

We have now been at war with Japan for over two years and four months—and I recognize it to be a well known fact that during this time the entire nation, particularly the Congress of the nation, has been enthusiastically war-minded to a degree that any protective measures desired by the Army or Navy could be had for the asking, upon a reasonable and convincing showing of such needs. Much legislation of such kind has been enacted. If the present laws do not give the Nation the fullest desirable protection against subversive or suspicious Japanese aliens, or even native-born persons of alien parentage, and such fact is known to the Army or Navy organizations, clearly it is the duty of such organizations to ask for legislative curb and procedure, instead of insisting upon holding by force of arms an entire population under a form of helpless and unappealable subjugation called martial law or military government, under the reasoning of Army or Navy officers that such form of government is required, or is convenient to them, in local and national portection and safety.

There can be no question that martial law depends for its creation and existence upon a condition of disorder so great as to disrupt the orderly performance of civil government. [169] It cannot be justified under the Constitutional provisions for the operation of our government upon any claim of military convenience or economic practicality.

Congress may give the Territory of Hawaii any

form of government it may see fit, conformable to Constitutional provisions, but no one in the War Department has such lawful power.

We entertain the highest respect for the gentlemen who gathered with Governor Stainback at Washington and discussed the problems confronting the war administration here in late 1942. No one could question their earnest sincerity in efforts to provide for the best protection of national war interests. That, however, is outside of the problem brought before the court. The court must look into their lawful authority to devise and lay down a government for the people of Hawaii. No one among them had authority, under the known conditions that prevailed at that time, to declare martial law or order that it be continued. The Governor was the only one in whom the power was vested under the Organic Act to declare it under any circumstances. At that time he could not make the finding of fact that was necessary for its lawful declaration. Upon the contrary, he knew that all grounds of necessity in public safety had passed. He had no more authority to declare it in part than in whole.

If he and the other gentlemen acted upon the assumption that the executive and judicial government of Hawaii had lawfully passed to the hands of the Commanding General of the Hawiian Department by reason of Governor Poindexter's proclamation, and was then vested there, they were in error, for the Organic Act, under which the Governor avowedly acted, gave him no such power of

transfer or abdication, but fixed upon him alone the responsibility for the faithful execution of the laws of the United States and of the Territory within [170] the Territory.

The right to establish martial law under Sec. 67 of the Organic Act springs from the necessity arising from disorders such as disrupt and make inoperative civil government and it ceases and becomes unlawful as soon as the civil government is capable and willing to resume its normal functions.

It is argued by the assistant United States Attorney General, appearing in the case for the Respondent, the custodian of the City and County of Honolulu jail, that when martial law was once declared by the Governor and his action was approved by the President it must continue until the President revokes the order and restores the rights of civil government. I do not so construe the meaning or purpose of the last sentence of Sec. 67 of the Organic Act. Proclaiming martial law and suspending of the privilege of the writ of habeas corpus being drastic and extraordinary measures, it is but reasonable to suppose that Congress in entrusting such powers with the Governor of Hawaii considered that it should provide some supervisory check, and gave power of veto to the President. I can see nothing to justify a supposition that in giving the Governor authority to evoke such rules, if in his judgment a condition of high disorder existed or threatened, Congress intended that once he had so acted Presidential approval should be required to undo his act which had displaced the govern-

ment which Congress had carefully provided. Tidal floods, earthquakes, or riots might make it seem necessary to call out the militia and declare martial law in given districts for a short time, and it does not make sense to suppose that Congress intended in the year 1900, when the speediest known means of communication with Washington might require as much as three weeks time in either direction, that martial law once evoked here must continue until undone by the President, notwithstanding [171] that the Governor might discover he had erred in judgment in having evoked it, or that its legitimate purpose had been fully served.

I find from the evidence that at all times during the year 1943 and continuing to this day, conditions were such throughout all the principal islands of the Territory of Hawaii that the regularly constituted civil government was either in efficient operation or fully capable of such operation in all its branches and ordinary departments and was sufficiently equipped, capable and willing to perform all functions for which it was created.

I find from the evidence that while the Island of Oahu may have been on March 2, 1944, and thereafter to this day, subject to possible attack by enemies at war, that it was not then, nor is it now, in imminent danger of invasion by hostile forces, neither was or is it in rebellion.

I conclude as a matter of Law:

1. That martial law did not lawfully exist in the Territory of Hawaii during the year 1943, particularly after March 10, 1943.

2. That the Office of Military Governor of the Territory of Hawaii is without lawful creation, and as such office, possesses no lawful authority over civilian affairs or persons.

3. That the Office of Provost Court at Pearl Harbor Navy Yard, Oahu, T. H., created by General Orders of the Military Governor, possessed no authority in law to try, find guilty, and sentence the civilian petitioner to imprisonment in the county jail of the City and County of Honolulu.

Wherefore, the writ is sustained and the petitioner ordered discharged from custody. [172]

It is also ordered that his appearance bond be and it hereby is cancelled and the cash bail deposited by him with the clerk be refunded.

(S) DELBERT E. METZGER
Judge, United States District Court for and in the Territory of Hawaii.

Dated this 13th day of April, 1944.

[Endorsed]: Filed April 13, 1944. [173]

In the United States District Court for the
Territory of Hawaii
April Term 1944

Habeas Corpus No. 298

In the Matter of the Application of

LLOYD C. DUNCAN,

For a Writ of Habeas Corpus

JUDGMENT

Pursuant to the Findings and Conclusions of the court filed in the above cause on April 13, 1944, it is hereby

Ordered, Adjudged and Decreed that the Writ of Habeas Corpus be and the same hereby is sustained and the petitioner be and hereby is ordered, discharged from custody, and it is

Further Ordered, Adjudged and Decreed that the petitioner's appearance bond be cancelled and the cash bail deposited by him with the clerk be refunded; provided further that in the event an appeal is taken from this judgment the petitioner is ordered enlarged upon his personal recognizance.

Dated: April 20th, 1944, at Honolulu, T. H.

(Signed) DELBERT E. METZGER,
Judge, United States District
Court, District of Hawaii.

[Endorsed]: Filed April 20, 1944. [175]

[Title of District Court and Cause.]

EXCEPTIONS TO FINDINGS AND CONCLUSIONS

The Respondent, Duke Kahanamoku, respectfully objects and excepts to the Findings and Conclusions filed here in on April 13, 1944, and to the ruling and order in the said Findings and Conclusions that all evidence be stricken which relates to the questions whether the Petitioner committed an assault or was assaulted or whether he was fairly tried and sentenced by the Provost Court and imprisoned under proper conditions.

Dated this 20th day of April, 1944, Honolulu, T. H.

(Signed) G. D. CROZIER,
United States Attorney, District of Hawaii,
(Signed) EDWARD J. ENNIS,
Special Assistant to the Attorney General,
Attorneys for Respondent.

The foregoing exceptions are hereby allowed.

Dated this 20 day of April, 1944, Honolulu, T. H.

(Signed) DELBERT E. METZGER,
Judge, United States District Court, District of Hawaii.

[Endorsed]: Filed April 20, 1944. [176]

[Title of District Court and Cause.]

ORDER ON TAKING APPEAL

Upon motion of Respondent, and it appearing that the transcript of the proceedings and hearing herein may not be completed by the Court Reporter within the ten (10) day period provided for appeal by Rule 126 of this Court, because of the length of the hearing and other official duties of the Reporter, and it further appearing that the Findings and Conclusions herein dated and filed on April 13, 1944, were not made in open Court at the conclusion of the hearing and argument on April 12, 1944, it is hereby

Ordered, Adjudged and Decreed that Rule 126 shall not be applicable to this cause and the time for taking, allowing and perfecting appeal from the final decision and judgment herein filed on April 20, 1944 be and the same hereby is fixed at the period of thirty (30) days from the filing of said decision and judgment and until and including May 20, 1944; and it is

Further Ordered, Adjudged and Decreed that Rule 124 of this Court shall not be applicable to this cause and the appeal herein may be taken by filing a written notice of appeal from the aforesaid final decision and judgment within the aforesaid thirty (30) day period and in the manner prescribed in the Rules of Civil Procedure for the District Courts of the United States.

Dated this 20th day of April, 1944, Honolulu, T. H.

(Signed) DELBERT E. METZGER,
Judge, United States District Court, District of Hawaii.

(Signed) J. FRANK McLAUGHLIN,
Judge, United States District Court, District of Hawaii.

[Endorsed]: Filed April 20, 1944. [177]

[Title of District Court and Cause.]

NOTICE OF APPEAL

Notice is hereby given that the Respondent, Duke Kahanamoku hereby appeals to the Circuit Court of Appeals for the Ninth Circuit from the final judgment herein filed April 20, 1944 sustaining the Writ of Habeas Corpus.

Dated: Honolulu, T. H., this 20th day of April, 1944.

(Signed) G. D. CROZIER,
United States Attorney, District of Hawaii,

(Signed) EDWARD J. ENNIS,
Special Assistant to the Attorney General,
Attorneys for the Respondent Appellant.

Allowed:

(Signed) DELBERT E. METZGER,
Judge of the above entitled Court.

Copy received:

ROBERTSON CASTLE & ANTHONY,

By (Signed) GARNER ANTHONY,
Attorneys for Petitioner Appellee.

[Endorsed]: Filed April 20, 1944. [178]

[Title of District Court and Cause.]

RELEASE OF PETITIONER ON HIS OWN RECOGNIZANCE

Be It Remembered, That on this 27th day of April, A. D. 1944, before me, Wm. F. Thompson, Jr., Clerk of the United States District Court aforesaid, personally came Lloyd C. Duncan, residing at 2088 Kuhio Avenue, Honolulu, T. H. and acknowledged himself to owe to the United States of America the sum of Five Hundred Dollars ($500.00), to be levied on his goods, chattels, lands and tenements, to and for the use of the United States aforesaid, in case default be made in the condition of this recognizance, which is: That if the said Lloyd C. Duncan shall personally be and appear in this Court to answer and abide by the judgment in the appellate proceeding in the above cause, and shall then

and there abide the order and judgment of this Court and not depart the Court without leave thereof, then this recognizance to be void; otherwise to remain in full force and effect.

(S) LLOYD C. DUNCAN.

Taken and acknowledged before me this 27th day of April, A. D. 1944.

(S) WM. F. THOMPSON, JR.,
Clerk, United States District Court.

[Endorsed]: Filed April 27, 1944. [180]

[Title of District Court and Cause.]

RESPONDENT APPELLANT'S DESIGNATION OF RECORD

The Respondent Appellant herein, Duke Kahanamoku, designates the entire record, proceedings and evidence, together with all the exhibits, to be included in the record on appeal:

1. Petition for a Writ of Habeas Corpus and all the Exhibits annexed thereto.
2. Transcript of proceedings in the District Court on March 14, 1944. (Copies of transcript designated here and elsewhere in this Designation to be supplied in connection with this Designation.)
3. Order to Show Cause dated March 14, 1944.
4. Motion by Respondent dated March 20, 1944 to extend time to answer Petition and Order to Show Cause.

5. Transcript of proceedings in District Court on March 20, 1944.

6. Order dated March 20, 1944 extending time to file Answer and Return.

7. Answer and Return dated March 29, 1944 to Petition and Order to Show Cause and to the Writ of Habeas Corpus and all the Exhibits annexed thereto.

8. Transcript of proceedings in the District Court on March 31, 1944.

9. Writ of Habeas Corpus and Marshal's return endorsed thereon.

10. Traverse dated April 4, 1944, [182]

11. Transcript of proceedings in the District Court on April 5, 6, 7, 8 and 11, 1944 and all the evidence, testimony and Exhibits in such proceedings as follows:

a. Testimony of Petitioner's witnesses Riley H. Allen, Judge Steiner, Judge Cristy, Gus K. Sproat, Governor Stainback and Shunzo Sakamaki.

b. Petitioner's Exhibits "A" to "H" inclusive, "J" to "V" inclusive.

c. Testimony of Petitioner's witnesses Lloyd C. Duncan, Robert Wietus, Christopher Matsler, David Melville and James W. Duncan.

d. Testimony of Respondent's witnesses Admiral Chester W. Nimitz, Lt. General Robert C. Richardson, Jr., Governor Stainback, Capt. Frank Wickhem, Mr. Robert Murakami and Lt. Andrew Wong.

e. Respondent's Exhibits 4 to 18 inclusive.

f. Testimony of Mrs. Alice Thompson, Cpl. Robert C. Bowerman, Pfc. Hunter, Lt. Trini, Civil Police Officer Robert Roan and Commander Mundo.

g. Respondent's Exhibit 1.

12. Court Minutes of April 12 and 20, 1944.

13. Findings and Conclusions of Court dated April 13, 1944.

14. Exceptions to Findings and Conclusions dated April 20, 1944.

15. Final Judgment sustaining writ of habeas corpus dated April 20, 1944.

16. Order on Taking Appeal dated April 20, 1944.

17. Notice of Appeal dated April 20, 1944 to the Circuit Court of Appeals, Ninth Circuit.

18. This Designation.

19. Petitioner Appellee's Counter Designation.

20. Clerk's certification to transcript of record on appeal.

Dated this .. day of April, 1944, Honolulu, T. H.

[183]

(Signed) G. D. CROZIER,
United States Attorney, District of Hawaii.

(Signed) EDWARD J. ENNIS,
Special Assistant to the Attorney General.
Attorneys for Respondent Appellant. [184]

[Title of District Court and Cause.]

PETITIONER'S COUNTER DESIGNATION OF RECORD

The petitioner designates the entire record, proceedings and evidence, together with the exhibits be contained in the record on appeal as set forth in the respondent's designation of record, except the following parts of the record, proceedings, evidence and exhibits which the petitioner believes to be immaterial and irrelevant:

(1) So much of petitioner's testimony that relates to what transpired on February 24, 1944, at the main gate, Pearl Harbor, in connection with the alleged assault;

(2) All of the testimony, proceedings and exhibits referred to in respondent's designation in paragraph 11-e, f and g;

(3) The following exhibits offered in evidence by petitioner:

Exhibit I, re Orders to troops, Hawaiian Department

Exhibit O, Textbook on Nationality Law [186]

(4) Respondent's Exhibits 1, 2, 3, 6, 14.

(5) All of respondent's Exhibit M (Hawaii Defense Act Rules) except the following:

Rules Nos. 1, 2, 14, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 60, 66, 78, 79, 86, 89, 90, 93, 95, 96, 97.

Petitioner hereby designates all of the clerk's

minutes and the personal recognizance to be included in the record on appeal.

Dated this 27 day of April 1944, Honolulu, T. H.

ROBERTSON, CASTLE & ANTHONY,

By (Signed) GARNER ANTHONY,

Attorneys for Lloyd C. Duncan.

[Endorsed]: Filed April 27, 1944. [187]

From the Minutes of the United States District Court for the Territory of Hawaii

Tuesday, March 14, 1944

[Title of Court and Cause.]

On this day came Mr. Garner Anthony of the firm of Robertson, Castle & Anthony, counsel for the petitioner herein, with Mr. James Duncan, brother of said petitioner, and also came Mr. G. D. Crozier and Mr. Edward A. Towse, United States District Attorney and Assistant United States Attorney, respectively, and Mr. Nils Tavares, Attorney General of the Territory of Hawaii as amicus curiae, and Lt. Col. Eugene V. Slattery, Office of the Military Governor, and Capt. Frank Wickhem, Provost Court Commissioner. This case was called for hearing on prayer of the petition.

Opening statement was made by Mr. Anthony.

Following argument by respective counsel, the Court ordered that an Order to Show Cause be

issued forthwith to Sheriff Kahanamoku, returnable Monday, March 20, 1944 at 10 a. m. directing him to appear and to show cause why a writ should not issue. [188]

From the Minutes of the United States District Court for the Territory of Hawaii
Monday, March 20, 1944

[Title of Court and Cause.]

On this day came Mr. Garner Anthony of the firm of Robertson, Castle & Anthony, counsel for the petitioner herein, and also came Mr. G. D. Crozier and Mr. Edward A. Towse, United States District Attorney and Assistant United States Attorney, respectively, counsel for the respondent herein, Mr. Duke P. Kahanamoku. This case was called for hearing on motion for an order granting enlargement of time within which to file return, answer, or otherwise plead to order to show cause.

Mr. Crozier urged that the motion for order granting enlargement of time be granted.

Mr. Anthony informed the Court that he had no objection to the granting of the motion; provided that defendant be released at this time on bond.

Following remarks by respective counsel, the motion was granted by the Court.

The Order was presented to the Court, signed and ordered filed. Said Order reads as follows:

"Habeas Corpus No. 298

"In the Matter of the Application of
Lloyd C. Duncan,

For a Writ of Habeas Corpus.

"Order

"Good cause appearing therefor;

"It Is Hereby Ordered that the motion of Duke Paoa Kahanamoku, Respondent in the above entitled proceeding for an enlargement of time within which to file a return, answer or otherwise plead to the Order to Show Cause heretofore issued in the above entitled proceeding is hereby granted; and the said Respondent is hereby allowed until 10:00 a. m. Friday March 31, 1944, to file a return, answer or otherwise plead to the Order to Show Cause. [189]

"Dated: Honolulu, T. H., this 20th day of March, 1944.

(S) DELBERT E METZGER,
Judge, United States District
Court, for the Territory of
Hawaii." [190]

From the Minutes of the United States District Court for the Territory of Hawaii
Friday, March 31, 1944

[Title of Court and Cause.]

On this day came Mr. J. Garner Anthony with Mr. James Duncan, brother of said petitioner, and

the petitioner herein, and also came Mr. Duke P. Kahanamoku, the respondent herein, with Mr. Edward J. Ennis, Assistant to the Attorney General of the United States, Mr. G. D. Crozier, United States District Attorney, and Mr. William J. Hughes, Lt. Col. Judge Advocate General's Department. This case was called for hearing on the return to the order to show cause.

Mr. Anthony offered an oral traverse to the return denying all the allegations therein and stated that a written traverse will be filed later.

Following argument by respective counsel on the issuance of the writ, the Court directed that the writ of habeas corpus issue forthwith returnable at 10:40 a. m. this day. An exception to the issuance of the writ was noted and allowed the respondent.

At 10:40 a. m., in compliance with the writ of habeas corpus, Duke Paoa Kahanamoku, Sheriff of the City and County of Honolulu, Territory of Hawaii, appeared before the court with the petitioner in his custody. The Court thereupon ordered custody of the petitioner to the United States Marshal. [191]

Upon request of Mr. Anthony, the Court granted the petitioner an enlargement upon furnishing bond in the sum of $500.00.

Mr. Ennis excepted to the release of the petitioner on bond and to the amount of bond set by the Court.

Upon request of Mr. Anthony, hearing in this cause was set for Wednesday, April 5, 1944 at 9 a. m. [192]

From the Minutes of the United States District Court for the Territory of Hawaii

Wednesday, April 5, 1944

[Title of Court and Cause.]

On this day came Mr. J. Garner Anthony of the firm Robertson, Castle & Anthony, counsel for the petitioner herein, and also came Mr. Edward J. Ennis, Special Assistant to the Attorney General of the United States, Mr. G. D. Crozier, United States District Attorney, and Mr. William J. Hughes, Lt. Col. Judge Advocate General's Department, and Mr. Eugene V. Slattery, Lt. Col. Office of the Military Governor. This case was called for hearing.

Mr. Lloyd Clifford Duncan, petitioner herein, was called and sworn and testified on his own behalf.

At 11:42 a. m. Mr. Riley H. Allen, Editor, Honolulu Star-Bulletin, was called and sworn and testified on behalf of the petitioner.

Folder and contents were marked for identification as Petitioner's Exhibit #1.

At 12:04 p. m., Mr. Harry Steiner, Judge, District Court of Honolulu, was called and sworn and testified on behalf of the petitioner.

At 12:20 p. m., Mr. Albert M. Cristy, Second Judge Circuit Court, First Judicial Circuit, was called and sworn and testified on behalf of the petitioner.

At 12:38 p. m., the Court ordered that this case be continued to April 6, 1944 at 9 a. m. for further hearing. [193]

From the Minutes of the United States District Court for the Territory of Hawaii
Thursday, April 6, 1944

[Title of Court and Cause.]

On this day came Mr. J. Garner Anthony of the firm of Robertson, Castle & Anthony, with Lloyd C. Duncan, the petitioner herein, and also came Mr. Edward J. Ennis, Special Assistant to the Attorney General of the United States, Mr. G. D. Crozier, United States District Attorney, and Mr. William J. Hughes, Lt. Col. Judge Advocate General's Department, and Mr. Eugene V. Slattery, Lt. Col. Office of the Military Governor. This case was called for further hearing.

Series of communiques issued by Admiral Nimitz for the period from June 4, 1942 to March 30, 1944, were admitted in evidence as Petitioner's Exhibit "A," marked and ordered filed.

Statement by Admiral Halsey appearing in the Army & Navy Register under date of January 22, 1944 inviting the Japanese fleet to come out and fight was admitted in evidence as Exhibit "B," marked and ordered filed.

Speech by General Arnold under date of January 17, 1943, covering spearheads driven into Japanese Pacific Defense, was admitted in evidence as Petitioner's Exhibit "C," marked and ordered filed.

Quotations by the War Department giving its present plan of accepting citizens of Japanese ancestry under the selective service draft was admit-

ted in evidence as Petitioner's Exhibit "D," marked and ordered filed. [194]

Statement by Lt. Gen. Richardson appearing in the Army & Navy Journal, naming Hawaii as the Fortress of the Pacific, was admitted in evidence as Petitioner's Exhibit "E," marked and ordered filed.

Article appearing in the Army & Navy Journal under date of December 15, 1943, with reference to statements made by both Admiral Halsey and the Secretary of Navy inquiring as to the whereabouts of the Japanese fleet, was admitted in evidence as Petitioner's Exhibit "F," marked and ordered filed.

Article appearing in the Army & Navy Register under date of March 4, 1944, by Maj. Gen. Hale, Commander of the 7th Air Force, giving the progress of the war in the Central Pacific Area and with a statement to the effect that imminent danger of invasion was not lifted until after the Battle of Midway, was admitted in evidence as Petitioner's Exhibit "G," marked and ordered filed.

Mr. Gus K. Sproat, Clerk, Supreme Court of Hawaii, was called and sworn and testified on behalf of the petitioner.

A report of cases handled by both the Supreme Court and Circuit Courts of Hawaii was admitted in evidence as Petitioner's Exhibit "H," marked and ordered filed. This report covered the period 1939 to 1943.

Memorandum issued by the Hawaiian Department to troops of Central Pacific Area with reference to military dress, sidearms, gas masks, saluting,

etc., was admitted in evidence as Petitioner's Exhibit "I," marked and ordered filed.

Copy of letter dated April 30, 1943, from Galen M. Fisher to Chas. F. Loomis, was admitted in evidence as Petitioner's Exhibit "J-1," marked and ordered filed. [195]

Copy of letter dated May 12, 1943, from W. A. Gabrielson to Chas. F. Loomis, was admitted in evidence as Petitioner's Exhibit "J-2," marked and ordered filed.

Copy of letter dated May 17, 1943, from Kendall J. Fielder to Chas. F. Loomis, was admitted in evidence as Petitioner's Exhibit "J-3," marked and ordered filed.

Copy of letter dated April 4, 1944, from Ralph C. Scott to Garner Anthony, covering war risk rates in Hawaii, was admitted in evidence as Petitioner's Exhibit "K," marked and ordered filed.

Comparative Statement of gross income and consumption tax collections and tax base for the calendar years 1941, 1942, and 1943, was admitted in evidence as Petitioner's Exhibit "L," marked and ordered filed.

Volume containing regulations issued by the Governor of Hawaii under the Hawaii Defense Act was admitted in evidence as Petitioner's Exhibit "M," marked and ordered filed.

At 10:23 a. m., Lloyd C. Duncan was recalled to the witness stand and gave further testimony.

Mr. James Woodrow Duncan, brother of said petitioner, was called and sworn and testified on behalf of the petitioner.

Signed statement by three witnesses who claimed to have been present during the argument between the petitioner and two marines was marked for identification as Petitioner's #2; the offer in evidence was denied by the Court. [196]

At 1:30 p. m., Mr. Robert Weities, merchant seaman, was called and sworn and testified on behalf of the petitioner.

Mr. Columbus Matsler, merchant seaman, was called and sworn and testified on behalf of the petitioner.

Newspaper clipping from the Honolulu Star-Bulletin under date of January 1, 1943, containing statement of Lt. Gen. Emmons, and newspaper clipping from the Honolulu Star-Bulletin under date of July 5, 1943, containing statement of Lt. Gen. Richardson, was admitted in evidence as Petitioner's Exhibit "N-1," marked and ordered filed.

Newspaper clipping from the Honolulu Star-Bulletin under date of June 7, 1943, containing statement of Lt. Gen. Richardson, was admitted in evidence as Petitioner's Exhibit "N-2," marked and ordered filed.

Newspaper clipping from the Honolulu Star-Bulletin under date of February 4, 1944, containing Proclamation of C. W. Nimitz, Admiral, United States Navy, Military Governor of the Marshall Islands, was admitted in evidence as Petitioner's Exhibit "N-3," marked and ordered filed.

Newspaper clipping from the Honolulu Star-Bulletin under date of July 15, 1943, containing an address by Lt. Gen. Richardson to the Honolulu

Chamber of Commerce, was admitted in evidence as Petitioner's Exhibit "N-4," marked and ordered filed.

Newspaper clipping from the Honolulu Star-Bulletin under date of May 27, 1943, containing a statement by Lt. Gen. Emmons, was admitted in evidence as Petitioner's Exhibit "N-5," marked and ordered filed. [197]

Newspaper clipping from the Honolulu Advertiser under date of April 2, 1944, containing a statement by Secretary of Navy Frank Knox, was admitted in evidence as Petitioner's Exhibit "N-6," marked and ordered filed.

The foregoing exhibits admitted in evidence as Petitioner's Exhibits "N-1," to "N-6," inclusive, were a part of Petitioner's #1, heretofore marked for identification.

At 2:55 p. m., Mr. David G. Melville, Employee Pearl Harbor, was called and sworn and testified on behalf of the petitioner.

At 3:04 p. m., Mr. Anthony stated that he is prepared to rest his case with the exception of taking testimony of the Governor of Hawaii.

Alice Campbell Thompson, recorder, Pearl Harbor Navy Yard, was called and sworn and testified on behalf of the respondent.

Transcript of proceedings of the trial of petitioner before the Provost Court was marked for identification as Respondent's No. 1, and was admitted in evidence as Respondent's Exhibit #1, marked and ordered filed.

Shorthand notes on the arraignment of petitioner was admitted in evidence as Respondent's Exhibit #2, marked and ordered filed.

Shorthand notes on the trial of petitioner was admitted in evidence as Respondent's Exhibit #3, marked and ordered filed.

Corp. Robert C. Bowerman, United States Marine Corps, Reserve, was called and sworn and testified on behalf of the respondent.

Newspaper clipping from the Honolulu Advertiser under date of April 6, 1944, containing a statement by Gen. Emmons, Commander of the Western Defense Command, was admitted in evidence as Respondent's Exhibit #4, marked and ordered filed.

At 4:17 p. m., the Court ordered that this case be continued for further hearing to Friday, April 7, 1944 at 9 a. m. [198]

From the Minutes of the United States District Court for the Territory of Hawaii
Friday, April 7, 1944

[Title of Court and Cause.]

On this day came Mr. J. Garner Anthony of the firm of Robertson, Castle & Anthony, with Lloyd C. Duncan, the petitioner herein, and also came Mr. Edward J. Ennis, Special Assistant to the Attorney General of the United States, Mr. G. D. Crozier, United States District Attorney, and Mr. William J. Hughes, Lt. Col. Judge Advocate General's Department, and Mr. Eugene V. Slattery, Lt. Col.

Office of the Military Governor. This case was called for further hearing.

Mr. Ingram M. Stainback, Governor of Hawaii, was called and sworn and testified on behalf of the petitioner.

At 9:44 a. m., upon request of Mr. Ennis, the Governor was made a witness for the respondent.

Photostatic copy of draft of letter from the Secretary of War, Attorney General, and Secretary of Interior, to the President, photostatic copy of letter of the President's reply thereto, together with copy of the proposed proclamation, one by the Governor of Hawaii and one by General Emmons, covering the restoration of civil authority in the Territory of Hawaii, was marked for identification as Respondent's No. 5; and later admitted in evidence as Respondent's Exhibit #5-1, marked and ordered filed.

Photostatic copy of a letter dated February 1, 1943 to Secretary Stimson from the President bearing a typewritten signature, and photostatic copy of a letter dated January 18, 1943, to the President bearing the actual signatures of the Secretary of War, Attorney General, and the Secretary of the Interior, and annexed [199] thereto, copy of the proposed proclamation, one by the Governor of Hawaii and one by General Emmons, covering the restoration of civil authority in the Territory of Hawaii, was marked for identification as Respondent's No. 6; and later admitted in evidence as Respondent's Exhibit #5-2, marked and ordered filed.

Photostatic copy of the letter from the President to the Secretary of War, dated February 1, 1943, covering the restoration of civil authority in Hawaii, was marked for identification as Respondent's No. 7; and later admitted in evidence as Respondent's Exhibit #5-3, marked and ordered filed.

Photostatic copy of agreed draft of a letter from the Governor of Hawaii to General Emmons, dated January 18, 1943, covering the restoration of civil authority in Hawaii, was marked for identification as Respondent's No. 8; and later admitted in evidence as Respondent's Exhibit #5-4, marked and ordered filed.

At 10:20 a. m., cross-examination of the Governor of Hawaii was resumed by Mr. Ennis.

Mr. Robert Roan, Civil Police Officer, Navy Yard, Pearl Harbor, was called and sworn and testified on behalf of the respondent.

Mr. James C. Hunter, sentry, Main Gate, Navy Yard, Pearl Harbor, was called and sworn and testified on behalf of the respondent.

Mr. Gene A. Trini, legal aide, Provost Court, Pearl Harbor, was called and sworn and testified on behalf of the respondent.

Mr. J. Frank Wickhem, Captain, U. S. Army, Legal Advisor, Provost Court Commissioner Office of the Military Governor, was called [200] and sworn and testified on behalf of the respondent.

Summary of cases in Provost Court for the Month of February, 1944, was admitted in evidence as Respondent's Exhibit #6, marked and ordered filed.

Mr. Arthur L. Mundo, Lieutenant Commander, U. S. Navy, Provost Court Judge, Pearl Harbor, was called and sworn and testified on behalf of the respondent.

At 11:25 a. m., the Court ordered that this case be continued for further hearing to Saturday, April 8, 1944 at 9 a. m. [201]

From the Minutes of the United States District Court for the Territory of Hawaii
Saturday, April 8, 1944

[Title of Court and Cause.]

On this day came Mr. J. Garner Anthony of the firm of Robertson, Castle & Anthony, with Lloyd C. Duncan, the petitioner herein, and also came Mr. Edward J. Ennis, Special Assistant to the Attorney General of the United States, Mr. G. D. Crozier, United States District Attorney, and Mr. William J. Hughes, Lt. Col. Judge Advocate General's Department, and Mr. Eugene V. Slattery, Lt. Col. Office of the Military Governor. This case was called for further hearing.

Statistics of population estimated for the Territory of Hawaii prepared by the Bureau of Vital Statistics at Honolulu, for the period from July 1, 1943 to July 1, 1944, was admitted in evidence as Respondent's Exhibit #7, marked and ordered filed.

Mr. Andrew S. Wong, United States Army Officer, was called and sworn and testified on behalf of the respondent.

Report covering the number of births of persons

of Japanese Ancestry registered with the Japanese Consulate in Hawaii and with the Bureau of Vital Statistics of the Territory of Hawaii was marked for identification as Respondent's No. 8; and later admitted in evidence as Respondent's Exhibit #8, marked and ordered filed. [202]

Memorandum containing figures on the estimtae of dual citizens of Japanese ancestry in the Territory of Hawaii as of July 1, 1941, was marked for identification as Respondent's No. 9; and later admitted in evidence as Respondent's Exhibit #9, marked and ordered filed.

Mr. Robert K. Murakami, Attorney-at-Law, was called and sworn and tc ified on behalf of the respondent.

Translation of Japanese law on Japanese citizenship of persons of Japanese ancestry born outside of Japan was marked for identification as Respondent's No. 10; and later admitted in evidence as Respondent's Exhibit #10, marked and ordered filed.

Mr. J. Frank Wickhem, Captain, United States Army, was recalled to the witness stand by Mr. Anthony and gave further evidence in this case.

At 10:37 a. m., the Court ordered that this case be continued to Tuesday, April 11, 1944, at 9 a. m. for further hearing. [203]

From the Minutes of the United States District Court for the Territory of Hawaii
Tuesday, April 11, 1944

[Title of Court and Cause.]

On this day came Mr. J. Garner Anthony of the firm of Robertson, Castle & Anthony, with Lloyd C. Duncan, the petitioner herein, and also came Mr. Edward J. Ennis, Special Assistant to the Attorney General of the United States, Mr. G. D. Crozier, United States District Attorney, and Mr. William J. Hughes, Lt. Col. Judge Advocate General's Department, and Mr. Eugene V. Slattery, Lt. Col. Office of the Military Governor. This case was called for further hearing,

Mr. Robert C. Richardson, Lt. Gen. United States Army, Commanding General, Central Pacific Area, was called and sworn and testified on behalf of the respondent.

Article appearing in the Honolulu Star-Bulletin under date of November 13, 1943, written by Eugene Burns, Associated Press War Correspondent, on his interview with military experts including Gen. Richardson on the possibility of a second attack on Pearl Harbor, was admitted in evidence as Respondent's Exhibit #11-a, marked and ordered filed.

Newspaper clipping from The Sunday Star under date of November 13, 1943, containing an article in which Gen. Richardson is quoted as saying that he believes another attack by the Japanese on Pearl Harbor is likely to occur within the next four months, was admitted in evidence as Respondent's Exhibit #11-B, marked and ordered filed. [204]

At 11:05 a. m., Mr. Chester W. Nimitz, Admiral, United States Navy, Commander in Chief, United States Pacific Fleet and Pacific Areas, was called and sworn and testified on behalf of the respondent.

Map and legend, showing Central Pacific Area with defense and attack areas, was admitted in evidence as Respondent's Exhibit #12, marked and ordered filed.

At 11:40 a. m., Mr. Robert K. Murakami was recalled to the witness stand and gave further evidence in this case.

Mr. Shunzo Sakamaki, Assistant Professor of History, University of Hawaii, was called and sworn and testified on behalf of the respondent.

Text book on Nationality Law by Flournay & Hudson was admitted in evidence as Petitioner's Exhibit "O," marked and ordered filed.

Copy of the petition to the Secretary of State by citizens of Japanese ancestry requesting that steps be taken to negotiate with the Japanese government for a simplified procedure of expatriation by American-Japanese with that government was admitted in evidence as Petitioner's Exhibit "P," marked and ordered filed.

Treasurer's report of donations received for the campaign fund relative to the petition marked as Petitioner's Exhibit "P" was admitted in evidence as Petitioner's Exhibit "Q," marked and ordered filed.

Copy of General Orders No. 31, Office of the Military Governor of Hawaii, dated August 25, 1943,

was admitted in evidence as Petitioner's Exhibit "R," marked and ordered filed. [205]

Copy of General Orders No. 38, Office of the Military Governor of Hawaii, dated October 14, 1943, was admitted in evidence as Respondent's Exhibit #13, marked and ordered filed.

Copy of "The Volunteer" was admitted in evidence as Petitioner's Exhibit "S," marked and ordered filed.

Newspaper clippings from the Honolulu Star-Bulletin under date of March 10, 1943, containing an address by Admiral Nimitz, and under date of January 1, 1943, containing an interview with General Emmons by Frank H. Bartholomew, United Press Agent, on the defense of Hawaii, were admitted in evidence as Petitioner's Exhibit "T-1," marked and ordered filed.

Newspaper clippings from the Honolulu Star-Bulletin under dates of June 7, 1943 and December 7, 1943, containing statements by Admiral Nimitz, were admitted in evidence as Petitioner's Exhibit "T-2," marked and ordered filed.

Newspaper clippings from the Honolulu Star-Bulletin under date of January 27, 1944 and from the Honolulu Advertiser under date of January 19, 1944, containing statement by Rear Admiral Robert B. Carney, Chief of Staff to Admiral Halsey, on the progress of the naval attack on Rabaul, Kavieng, and Nauru, were admitted in evidence as Petitioner's Exhibit "T-3," marked and ordered filed.

Newspaper clipping from the Honolulu Advertiser under date of February 4, 1944, containing

statement of Undersecretary of War Robert Patterson, with reference to the battle for the Marshall Islands, was admitted in evidence as Petitioner's Exhibit "T-4," marked and ordered filed. [206]

Memorandum to Col. Wm. R. C. Morrison by Lt. Angus M. Taylor, Jr. covering the number of American-Japanese now serving in the United States Army, number of Japanese interned in Hawaii and evacuated to the mainland for internment, number of Japanese employed on military and naval projects, and the work performed by petitioner during his imprisonment was admitted in evidence as Petitioner's Exhibit "U," marked and ordered filed.

The Navy's Report dated December 5, 1942 on Pearl Harbor damages caused by Japanese attack on December 7, 1941, together with photographs showing such damage, was admitted in evidence as Respondent's Exhibit #14, marked and ordered filed.

Report of Japanese interned in the Territory of Hawaii from December 7, 1941 to April 10, 1944, was admitted in evidence as Respondent's Exhibit #15, marked and ordered filed.

At 12:30 p. m., both sides having rested their case, the Court ordered that this case be continued to Wednesday, April 12, 1944 at 9 a. m. for argument. [207]

From the Minutes of the United States District Court for the Territory of Hawaii

Wednesday, April 12, 1944

[Title of Court and Cause.]

On this day came Mr. J. Garner Anthony of the firm of Robertson, Castle & Anthony, with Lloyd C. Duncan, the petitioner herein, and also came Mr. Edward J. Ennis, Special Assistant to the Attorney General of the United States, Mr. G. D. Crozier, United States District Attorney, Mr. William J. Hughes, Lt. Col. Judge Advocate General's Department, and Mr. Eugene V. Slattery, Lt. Col. Office of the Military Governor. This case was called for argument.

At 9:05 a. m., argument was had by Mr. Anthony.

At 10:17 a. m., argument was had by Mr. Ennis, who moved to dismiss the application for a writ of habeas Corpus, which motion was overruled by the Court and an exception allowed the respondent.

At 11:50 a. m., Mr. Anthony made his closing argument.

At 12:10 p. m., the Court stated that he would take this matter under consideration and will endeavor to render his decision by Thursday noon, April 13, 1944. [208]

From the Minutes of the United States District Court for the Territory of Hawaii
Thursday, April 20, 1944

[Title of Court and Cause.]

On this day came Mr. J. Garner Anthony, counsel for the petitioner herein, and also came Mr. Edward J. Ennis, Special Assistant to the Attorney General of the United States. This case was called for the purpose of introducing further evidence, entry of judgment, and giving notice of appeal.

Copy of General Orders No. 1 to No. 181, inclusive, issued by order of the Military Governor of Hawaii, covering the period from December 11, 1941 to January 30, 1943, inclusive, was offered by Mr. Anthony, and admitted in evidence by the Court as Petitioner's Exhibit "V," marked and ordered filed, there being no objection by Mr. Ennis to the introduction of said exhibit.

Copy of Provost Court Proceedings in the case of Lloyd Clifford Duncan, giving the violation committed by him and the sentence imposed upon him by the Provost Court, was offered by Mr. Ennis and admitted in evidence by the Court as Respondent's Exhibit #16, marked and ordered filed, there being no objection by Mr. Anthony to the introduction of said exhibit.

Copy of Penal Summons of Provost Court at Pearl Harbor, T. H. to Lloyd Clifford Duncan was offered by Mr. Ennis and admitted in evidence by the Court as Respondent's Exhibit #17, marked and ordered filed, there being no objection by Mr. Anthony to the introduction of said exhibit. [209]

Copy of Mittimus issued by the Provost Court, Pearl Harbor, T. H. for the imprisonment of Lloyd Clifford Duncan was offered by Mr. Ennis and admitted in evidence by the Court as Respondent's Exhibit #18, marked and ordered filed, there being no objection by Mr. Anthony to the introduction of said exhibit.

Mr. Ennis then requested that the Court direct the court reporter to file with the Clerk of Court as soon as possible a transcript of the entire proceedings held in this case.

It was stipulated by respective counsel that Petitioner's Exhibit "1", containing orders to troops of the Hawaiian Department, discloses that for a period of six months immediately after December 7, 1941, strict orders were given service personnel in regard to the carrying of gas masks, side arms, and issuance of passes; that after June 1942 there was a gradual relaxation of these regulations up to the date of the filing of the petition; that for a long period prior to the filing of the petition, the carrying of gas masks and side arms was discontinued.

Exceptions to Findings and Conclusions were presented to the Court, was thereafter allowed by the Court and ordered to be placed on file.

Form of Judgment was presented to the Court, was thereafter signed and ordered to be placed on file.

Order on Taking Appeal, signed by the Judges of this court, which suspended, for the purpose of perfecting [210] the appeal in this cause, the operation of Rules No. 124 and No. 126 of this court, was

presented to the Court and ordered to be placed on file.

Notice of Appeal was presented to the Court, allowed, and ordered to be placed on file; copy of same was served on Mr. Anthony.

The Judgment reads as follows:

[Judgment set out previously at page 403.]

The Order on Taking Appeal reads as follows:

[Order on Taking Appeal set out previously at page 405.] [211]

From the Minutes of the United States District Court for the Territory of Hawaii

Thursday, April 27, 1944

[Title of Court and Cause.]

On this day came the petitioner herein with Mr. J. Garner Anthony, his counsel, and also came Mr. G. D. Crozier and Mr. Edward A. Towse, United States District Attorney and Assistant United States District Attorney, respectively, for the respondent herein. This case was called for the purpose of placing petitioner on his own personal recognizance pending appeal.

Mr. Anthony informed the Court and the United States Attorney that petitioner, a skilled mechanic, had been repeatedly refused permission to return to his work at the Navy Yard at Pearl Harbor by the authorities there since his release from imprisonment; that the naval authorities at Pearl Harbor have offered to transfer him to the Navy Yard at

Mare Island; and that the Court may make such order as it deems appropriate under the circumstances.

The Court then ordered that petitioner file his personal recognizance without surety and the cash bond on deposit be cancelled and returned to the surety. [213]

[Title of District Court and Cause.]

TRANSCRIPT OF PROCEEDINGS [214]

The above-entitled matter was held in the Judge's Chamber, U. S. District Court, Honolulu, Territory of Hawaii on March 14, 1944, at 2:05 o'clock p.m., Before

Hon. J. Frank McLaughlin, Judge.

Present:

G. D. Crozier, Esq.,
U. S. District Attorney;
Edward Towse, Esq.,
Assistant District Attorney;
J. Garner Anthony, Esq.,
of Robertson, Castle & Anthony;
C. Nils Tavares, Esq.,
Attorney General;
Frank Wickhem, Captain,
U. S. Army;
Eugene V. Slattery, Lieutenant-Colonel,
U. S. Army;
James Duncan, Esq.,
Brother of the Petitioner.

Federal Building,
Honolulu, T. H. [215]

PROCEEDINGS

The Clerk: Habeas Corpus No. 298, in the matter of the application of Lloyd C. Duncan for a writ of Habeas Corpus.

The Court: Very well. This matter, according to the record, was noticed for presentation to the Court at 2:00 this afternoon, and it is now 2:05 by my chamber's clock; and, as is customary in the presentations of petitions of this sort, they are presented in the chambers.

The record may show the presence of Mr. Anthony, of the firm of Robertson, Castle and Anthony, representing the Petitioner. He has with him a gentleman by the name of James Duncan.

Mr. Anthony: He is a brother of the Petitioner.

The Court: Mr. Crozier, U. S. Attorney; Mr. Towse, Assistant; Captain Wickhem, Commissioner of the Provost Court; and Colonel Slattery, of the Legal Division of the Office of the Military Governor; Mrs. Hollingsworth, of the Star-Bulletin; and —excuse me—Mr. Tavares, Attorney General of the Territory.

Mr. Tavares: Also as an observer, your Honor, for the time being.

The Court: All right.

Mr. Anthony: I don't know whether your Honor has had an opportunity to examine the application.

The Court: I have read it hurriedly.

Mr. Anthony: This application discloses that the Petitioner here, a citizen of the United States who is presently employed as a civilian worker at Pearl

Harbor, on or about the 24th of February was going down to his [216] work on the Naval reservation when he was accosted by the marine sentry at the gate and thereafter placed under arrest. He was then taken in custody, as disclosed by the petition, and retained in custody of the civil police until the following day, when he was discharged.

Several days later the Petitioner was served with a charge in what is styled a Provost Court at Pearl Harbor, City and County of Honolulu. Copy of the charge is attached to the petition.

The petition also discloses that the Petitioner was not represented by counsel; that at the conclusion of the trial, which occurred on March 2nd, he was sentenced to six months in the county jail by a Provost Court Judge, Arthur L. Mundo, Lieutenant Commander U. S. Navy, retired; and that thereafter a mittimus was issued by that individual, which was addressed to the high sheriff of the Territory of Hawaii, or to his deputy, or the sheriff of the City and County of Honolulu, which commanded the sheriff to take the Petitioner in custody pursuant to the trial had, as stated above; and that this petitioner is now restrained of his liberty in the city and county jail.

Under a color of authority of the United States of America, the complaint sets forth that this man has not been afforded a trial which he is entitled to under the Constitution and laws of the United States; that there is no justification for the trial of an assault and battery case involving a civilian defendant before a provost court; and that that de-

prives the Petitioner of his Constitutional rights of a trial by jury.

Under the judicial code, I think the Petitioner is entitled to have the writ issue. [217]

The Court: Mr. Anthony, I presume that you are familiar with the rules of this Court, and did you, as required by Rule 122, present this petition to the U. S. Attorney at least an hour before presenting it to the Court?

Mr. Anthony: Yes, your Honor, that was presented at, I believe, around 11:30 this morning to the U. S. Attorney.

The Court: Is there any question as to that, Mr. Crozier?

Mr. Crozier: No question of that as a fact, if the Court please—some time between 11:30 and 12.

The Court: Further, you pray on the basis of these allegations for the issuance of a writ, and, as you are well aware, there is a conflict between the statutes of the United States and the rules of this Court. I refer particularly to 28 U.S.C., section——

Mr. Anthony: 459.

The Court: This is the one that says, upon application, unless the Court for some reason decides otherwise, the writ shall issue forthwith.

Mr. Anthony: Section 455, your Honor.

The Court: Section 455, Title 28.

Mr. Anthony: The Court or Justice or ~~Judge~~ to whom such application is made, shall forthwith award a writ of habeas corpus unless it appears

from the petition itself that the party is not entitled thereto.

The Court: Similarly, the subject is covered by Rule 123-a of this Court, adopted August 29, 1913. I presume you are familiar with that wording, which says:

> "Excepting in cases of emergency, or where in the judgment of the court or judge before whom the application shall be made the circumstances shall [218] otherwise require, the writ of habeas corpus shall not issue until after an order to show cause shall have been made and a hearing had upon the petition and the return to the order to show cause."

Despite this rule of the Court, your petition, as I understand the wording of the petition on behalf of your client, is for immediate issuance of the writ.

Mr. Anthony: In accordance with the judicial code.

The Court: Which reminds me—you are aware, too, are you not, that currently Judge Metzger has the civil calendar, so that technically this should be before Judge Metzger.

Mr. Anthony: I don't think that makes any difference in the power of the Court, your Honor. I understood the calendar had changed; that's why I brought it over here.

The Court: The calendar does not change until April 10th. However, Judge Metzger is not present. After you telephoned at 11:30 to state that you wished an appointment this afternoon for the purpose of presenting a petition for a writ, this

Court, not thinking at the moment that it was on Judge Metzger's calendar, gave you the appointment. A few seconds after, it realized it was on Judge Metzger's calendar, that is, it properly belonged there; and I telephoned to Judge Metzger and acquainted him with the facts, that you had called requesting such an appointment. And he indicated to me that he would like me to handle it today, at least, at 2 o'clock. If there are further proceedings than those which occur this afternoon, the case will be transferred to Judge Metzger or remain with this branch of the Court. That remains to be seen.

Mr. Anthony: That is satisfactory, your Honor.

[219]

The Court: Mr. Crozier, am I to infer that you are resisting the petition? In other words, have you anything that you wish to say?

Mr. Crozier: Yes, if the Court please, specially on behalf of the United States.

The Court: Make sure that gets into the record, that the U. S. Attorney appears specially on behalf of the United States.

Mr. Crozier: Here is paragraph six of the petition:

> "That petitioner is now unlawfully imprisoned under color of authority of the United States—".

It is apparent, if the Court please, that the United States is interested in the result of the proceeding, and that also may be said from the remarks of the

Court and of Counsel for the Petitioner. It is the position of the special appearance made here—an opportunity which, I believe, is available here and is the reason for the notice as prescribed by the rule of Court—to urge upon the Court the issuance of an order to show cause where the writ prayed for in this proceeding should or should not be granted.

I call your Honor's attention to that which your Honor has already pointed out, Rule 123-A of this Court, which reads verbatim:

> "Excepting in cases of emergency, or where in the judgment of the court or judge before whom the application shall be made the circumstances shall otherwise require, the writ of habeas corpus shall not issue until after an order to show cause shall have been made and a hearing had upon the petition and the return to the order to show cause."

And, if your Honor please, the Court I believe is well aware of the case of Walker vs. Johnston, decided by the Supreme Court of the United States.

[220]

The Court: Citation, please?

Mr. Crozier: On February 10, 1941. The citation is 312 United States Reports, page 275,——

The Court: Yes.

Mr. Crozier: Where on page 284, if the Court please, it states:

> "It will be observed that if, upon the face of the petition, it appears that the party is not entitled to the writ, the court may refuse to

issue it. Since the allegations of such petitions are often inconclusive, the practice has grown up of issuing an order to show cause, which the respondent may answer. By this procedure the facts on which the opposing parties rely may be exhibited, and the court may find that no issue of fact is involved. In this way useless grant of the writ with consequent production of the prisoner, and of witnesses may be avoided where from undisputed facts or from incontrovertible facts, such as those recited in a court record, it appears, as a matter of law, no cause for granting the writ exists. On the other hand, on the facts admitted, it may appear that, as a matter of law, the prisoner is entitled to the writ and to a discharge. This practice has long been followed by this court and by the lower courts. It is a convenient one, deprives the petitioner of no substantial right, if the petition and traverse are treated, as we think they should be, as together constituting the application for the writ, and the return to the rule as setting up the facts thought to warrant its denial, and if issues of fact emerging from the pleadings are tried as required by the statute."

If the Court please, our position is that we urge upon the Court the expediency, the desirability, the advisability of your Honor issuing process in the form of an order to show cause as to why the writ should or should not be granted upon the petitioner.

The Court: By what token—and I have dis-

cussed this with you before in the recent Batchelor habeas corpus case—by what authority does the Supreme Court, and this Court, undertake to flaunt the expressed wording of the Congress as embodied in 28 U.S.C., Section 455, where they do not [221] leave the matter to grave doubt but on the contrary say that the writ shall forthwith be awarded unless it appears that the party is not entitled to it?

Mr. Crozier: It is the issue that your Honor just touched upon, if the Court please, to determine in a preliminary way whether it appears from the petition itself that the party is not entitled to it, that the order to show cause procedure has developed. It is for your Honor's discretion, and it is in addition to all that the statute requires.

The Court: Yes, it would be.

Mr. Crozier: It would be in addition to all that the statute requires, and it is stated that the Petitioner, the prisoner, is deprived of no rights whatsoever.

Mr. Anthony: Except that he's in jail. That's all. I can explain how that grew up.

Mr. Crozier: Now, there is a further thought, if the Court please. I believe I am correct in this. If the writ does issue, this particular prisoner within your Honor's judicial knowledge being within 20 miles from the site of this Court, it is mandatory that——

The Court: The return be within three days.

Mr. Crozier: That the return be within three days. Now, taking the reading of the petition by Counsel, it is quite apparent, if the Court please,

that there is a fundamental issue involved in this proceeding. We urge, if it cannot be satisfactorily prepared for the Court's consideration, or determined by the Court in the course of a 3-day period——

The Court: Well, that 3-day period is the return date. [222]

Mr. Crozier: If your Honor were to issue a writ at this moment, the return would have to be three days hence. I take it after that your Honor could order a hearing on some day thereafter.

The Court: That's right.

Mr. Crozier: Nevertheless, if the Court please, I submit that the procedure as followed by the Supreme Court of the United States, and the lower courts, according to the case of Walker vs. Johnston, is the proper and expedient process to issue in this proceeding.

The Court: Of course, we have had conflicting precedents within our own Court; the most recent habeas corpus proceeding, the Batchelor case—in that case an order to show cause was issued and later the writ was issued.

Mr. Crozier: That is correct, if the Court please.

The Court: And prior to that, the next habeas corpus case—looking backward in point of time—was the famous case, or rather two habeas corpus cases; the Glockner and Seifert cases, in both of which the Court followed a statute and ignored its own rule as well as the dictum of the Supreme Court. So that in a way, based on precedent, it

more or less leaves this Court free to do as it pleases at present.

Mr. Crozier: I believe that is the Court's power in any event, if the Court please. There is another distinction.

The Court: Of course, in fairness I should add that in back of that to which I have referred in point of time, is a rather long history of Rule 123-a having been observed since its adoption in 1913.

Mr. Crozier: That is only my general knowledge, if [223] the Court please——

The Court: Well, having had, some years ago, some contact with immigration cases, I can speak on that as one having a bit of knowledge; but I can, of course, take judicial notice of the records in this Court. I interrupted you. Go ahead.

Mr. Crozier: There is one further consideration, if the Court please, that we'd like to urge. And I believe I am correct in this observation, in the event the Court issues process in the form of a writ, and then upon return day sets a hearing on it thereafter, that hearing will take the form of a trial, if the Court please, with evidence?

The Court: If there is an issue of fact.

Mr. Crozier: If there is an issue of fact. However, if the Court elects to issue an order to show cause at the outset, the matter, as stated in the authority which I cited to your Honor, is determined on the application, return and post-traverse, unless there be a contradiction on the question of fact.

The Court: I am familiar with the two methods

of proceeding, and I think you know from the test to which I put you to and through in the Batchelor case that I personally think that this order to show cause procedure frequently results in a merry-go-round. That is, you go round in a circle and arrive right back where you began. But regardless of what I personally think about the matter, I am faced with Rule 123-a; and I am likewise faced with the statute.

Is there anything else you'd like to say right now? Otherwise, I will call on Mr. Anthony to hear what he has to say. [224]

Mr. Crozier: Not at the moment, if the Court please.

The Court: Very well. Mr. Anthony, by virtue of what do you ask this Court to ignore its own rules?

Mr. Anthony: In the first place, your Honor, I think that the command of the act of Congress is binding. I am quite familiar with the Walker case. It is not clear from that opinion whether or not that procedure of the adoption of an order to show cause was consented to by the prisoner. But I do know what the history of that procedure is, and it is this: On the mainland of the United States, where the Federal prisoners are sometimes at considerable distance from the courtroom, and probably across state lines, it is a great inconvenience in the many habeas corpus cases that come before those Federal courts to compel the warden of the Federal prison to actually produce the body

of the prisoner in obedience to the judicial code. For that reason this technique has grown up of trying those issues where they can be tried, in some cases, upon the application of an order to show cause.

Now, I don't see that the facts here fit that situation at all. Here we have a county jail that is two or three blocks away from this courthouse. If there is anything in the Petitioner's application here, he is unlawfully restrained of his liberty, and he is going to stay in jail until this proceeding is over. If the United States were to come in here and turn the man loose on bond to this Court, that might be a different situation. But that is not the fact. The man is imprisoned. He is having his substantial rights invaded every day.

Now, despite the conflicting practice in this Court, [225] I think the clearest way to raise this issue, if it is to be raised and is to be contested, is by the issuance of the writ. And certainly your Honor cannot go wrong in following the expressed words of the judicial code, which to my way of thinking leave no room for interpretation. Beyond that, we have had the precedent of prior habeas corpus cases, recent habeas corpus cases in this Court, in which the writ has in fact issued.

Mr. Crozier says that the procedure to follow the requirement of the U.S. judicial code may result in the trial of issues of fact. My answer to that is that the same would be true if we had filed an order to show cause, applied for an order to show cause. The Sheriff of the United States wouldn't

come in here and admit the facts of the petition; he'd come in here and contest the facts alleged, I presume. I don't know. I can't contest the record facts.

The Court: On the facts of your position, Mr. Crozier, consulting 455 of Title 28 once again, let me read it:

> "The court, or justice, or judge to whom such application is made shall forthwith award a writ of habeas corpus, unless it appears from the petition itself that the party is not entitled thereto."

Unless it appears from the petition itself that the party is not entitled thereto—will you give me any help in construing the latter part of that sentence?

Mr. Crozier: Well that of itself, if the Court please, perhaps can't be determined on brief notice. The order to show cause performs that function, if the Court please.

The Court: It strikes me as if the statute requires the Court to make an on the spot decision. First, if it is obvious from the petition itself that it is frivolous [226] or no facts are alleged that would come close to having a meritorious basis for the issuance of a writ, that under such circumstances why, of course, the application could be properly denied. But in other circumstances Congress seems to say that the Court "shall forthwith award a writ." If we didn't have the word "forthwith" in there, I could understand perhaps this rule 125-a and the Walker vs. Johnston case. But I con-

fess that I don't know where this Court or the Supreme Court of the United States ever got to the point of assuming to the contrary to the expressed mandate of the Congress.

Confining you, Mr. Anthony, to this rule, you contend that even under this rule you are entitled to the issuance of a writ. Is there anything of an emergency nature in your case, or any facts that would, in your opinion, move the Court to do otherwise than follow the rule? I refer to those words in Rule 123-a which say:

> "Excepting in case of emergency, or where in the judgment of the court or judge before whom the application shall be made the circumstances shall otherwise require,——"

Mr. Anthony: There is nothing alleged in the petition that sets forth any emergency, your Honor. And if a detention of a man in the Honolulu jail illegally and without a valid trial, according to our contention, does not constitute cause, then there is no emergency. The man isn't sick or anything like that. He is suffering the usual privations that any prisoner would suffer being incarcerated. This man happens to claim that he has been falsely charged and falsely tried.

The Court: Of course, that is true in practically every habeas corpus case. [227]

Mr. Anthony: That is correct, your Honor.

The Court: A person being held by someone.

Mr. Anthony: That is correct. So I make no claim that this is an emergency other than any other kind of similar emergency.

Mr. Crozier: I call your attention again to Walker vs. Johnston, if the Court please, referring to the practice of the issuance of an order to show cause:

> "It is a convenient one, deprives the petitioner of no substantial right, if the petition and traverse are treated, as we think they should be, as together constituting the application for the writ, . . ."

The Court: Well, isn't that so, Mr. Anthony, that the order of the rule of the Court would deprive the petitioner of no substantial right?

Mr. Anthony: If the Petitioner is correct, your Honor, he will be discharged from the county jail within a few days, if a writ of habeas corpus issues out of this Court. If, on the other hand, the Petitioner is obliged to go through the red tape of an order to show cause, I don't know; the U.S. Attorney might prosecute an appeal for that, from that order, in the event that the Petitioner is successful in obtaining an order to show cause. And that would mean this, that while this case went its way through the appellate courts, the prisoner would still be in jail. At least I imagine that's what it would be.

Mr. Crozier: Not necessarily, if the Court please.

Mr. Anthony: If they would be willing to release the man on bond right now, I would withdraw my application for the issuance of a writ. I haven't heard any response to that. I think it

is fair. The man will post a bond. He couldn't get off this place anyhow. He is not dangerous [228] to the peace or safety of the United States. There is no military security involved in this matter. This is an ordinary garden variety case of assault and battery.

The Court: The issues presented by the allegations are rather deep-rooted, however.

Mr. Anthony: That is correct, your Honor. It goes to the very roots of this system.

The Court: From a remark which Mr. Anthony made, I take it that he is calling on you to react to his suggestion. Do you wish to react to it in any way?

Mr. Crozier: I do not now appreciate what suggestion it was, if the Court please.

The Court: He suggested that if the Government would release the man on bond, that he would amend his petition for a writ to apply for an order to show cause, if I understood you correctly.

Mr. Anthony: That is correct, your Honor.

Mr. Crozier: I appear specially, if the Court please, for a single purpose——

Mr. Tavares: Your Honor, may I speak as a mediato——

The Court: Yes.

Mr. Tavares: Eventually, I take it, the sheriff of the city and county will be drawn into this, although he has not yet been; and through him the county and Territory will be interested at least in a collateral way. If some way could be arranged by which the suggestion of Mr. Anthony could be

followed, I think it would be very desirable because, as the Court says, these issues are very deep. I think it would be unfortunate if they were considered hastily. If possible, some method of procedure ought to be devised to give both parties time to present [229] the matter adequately to the Court.

The Court: Well, there is no one before the Court now who has any authority to pick up Mr. Anthony's suggestion. I respect Mr. Crozier's position. He is appearing specially, and he has gone into the history of other habeas corpus cases, and we all know the meaning of that, both in relation to habeas corpus matters and others of similar nature and, of course, special appearances themselves.

Is there anything else anyone wishes to say? Hearing none, I am prepared to state my reactions to the thing. My own inclination would be to follow the statute. Mr. Anthony mentioned that this petition was a garden variety of habeas corpus case. I am not inclined to agree with him, in view of the issues framed by the allegations of fact contained in the petition. I personally do not like orders to show cause procedures because, as I think anyone who has come in contact with me on such matters knows very well that, as I have said this afternoon, I think they result in a general merry-go-round.

But I am faced with a rule of our own Court, with a decision of the U. S. Supreme Court; and relying on the judgment of the Supreme Court that says that an order to show cause procedure

results in no substantial deprivation of right to the Petitioner, I am going to in this instance defer issuing a writ as prayed for, and in lieu thereof at this time to issue an order to show cause.

Mr. Anthony: When will that be made returnable, your Honor?

The Court: Well, that is the next matter for all of us to discuss. Mr. Crozier, though specially appearing, [230] do you wish to be heard on the subject?

Mr. Crozier: Well, still preserving my position as a special appearance, if the Court please, it is quite apparent from the wording of the petition, from Counsel-for-the-Petitioner's remark, and the remarks of the Court, that a very fundamental issue is involved. And I'd suggest that, in order to give a careful presentation of the return, and for the Court's aid—and perhaps this is necessary, as the Court knows—that time be allowed to perhaps contact Washington.

Mr. Anthony: May I suggest, your Honor, I don't think in any event it should be delayed any time beyond the time that the writ itself would be returnable. The writ would be returned in three days.

The Court: My recollection is that an order to show cause is usually returnable within ten days. Am I right, Mr. Clerk?

Mr. Crozier: That was the Batchelor case.

The Court: That was the Batchelor case.

Mr. Anthony: I don't think there is any time fixed by this rule.

The Court: No, not by rule but by practice. Mr. Clerk, do you happen to know what the usual time is in such instances?

Mr. Crozier: May I finish my remarks, if the Court please?

The Court: Yes.

Mr. Crozier: That a period of at least ten days be granted, with a further note, if the Court please, that I mention this for your Honor's consideration, the respondent has not appeared in the Court.

[231]

The Court: You appeared specially and have protected yourself by your appearance.

Mr. Anthony: May I suggest this, your Honor? The United States of America has had several years within which to familiarize itself with the problems involved in this case and others; and the U. S. Attorney, too. Now, the Court, over my objection, has gone with Counsel and followed a case in the Supreme Court of the United States, which gives half-way approval, a grudging approval to departing from the requirements of the act of Congress, on the basis that the Petitioner had been deprived of no substantial right. That is precisely why I ask for the issuance of a writ, because I know that that would be immediately faced with delay.

Now, I don't see any reason why they can't get their return to the order to show cause in this week. There is nothing particularly complicated about this. They have been through it before. And if your Honor is endeavoring to follow what the

Supreme Court says, i.e., not deprive the Petitioner of any substantial right, I certainly would suggest that the time be fixed this week.

The Court: Of course, in the Batchelor case the time originally allowed was ten days, and the Court extended that time in view of the representations that certain documents were needed and that they were available only in Washington, D. C. It is awfully hard to figure very closely on this thing when Mr. Crozier is appearing specially. There are certain questions I can't ask him without putting him in an awkward position. But I would think offhand that other than advice and counsel there isn't much by way of documentary evidence that would be needed [232] from Washington in a case of this sort. So far as advice and counsel are concerned, it seems that moderate facilities would permit that to be rapidly arrived at.

Mr. Crozier: Again, if the Court please—still preserving my status as special appearance—I call your Honor's attention to Section 456 of Federal 28,—

The Court: Yes?

Mr. Crozier: ——Which states as follows:

> "Any person to whom such writ is directed shall make due return thereof within three days thereafter, unless the party be detained beyond the distance of twenty miles; and if beyond that distance and not beyond a distance of a hundred miles, within ten days; and if beyond the distance of a hundred miles, within twenty days."

It was very well and probable, as your Honor recognized in the Batchelor case, that recourse to the Capital of the Country would be necessary. I don't know. I further again point out to your Honor the lack of service of any process yet upon the Respondent or any appearance by the Counsel.

Mr. Anthony: Well, that is hardly a valid excuse, your Honor. I am ready to serve it now, if the Court signs the writ.

Mr. Crozier: And if you would make the return of the order to show cause within this week, this being a matter of an element of surprise——

The Court: Well, in terms of service of process, the only person to be served is the person to whom the writ is directed, and where the order to show cause is directed; and he appears through his attorney. In this instance we probably have the situation we had in the Batchelor case, where the Territory and the U. S. Attorney appeared jointly in the case eventually. I don't know. [233]

Mr. Crozier: It also involves the proposition of representing the Respondent.

The Clerk: Mr. Thompson has informed me that in the majority of cases it was ten days and there were a few of five days.

The Court: I think in this situation, where it does not appear to me that there is any dispute over documents, that it presents simple deep-rooted issues of law; and, as Mr. Anthony says, the Government has had over two years to reflect on these matters. It reflected to considerable extent in the

Seifert and Glockner cases. And, accordingly, I will make the order to show cause returnable on Monday, the 20th, at 10:00 a.m. Mr. Clerk, I will issue, therefore, an order to show cause directed to the Sheriff of the City and County of Honolulu, directing him to show cause on Monday, by Monday at 10:00 a.m., as to why the writ prayed for should not issue. I believe that is all.

Mr. Anthony: Thank you, your Honor.

(The hearing adjourned at 2:55 o'clock p.m.)

[234]

I, Albert Grain, Court Reporter, U. S. District Court, Honolulu, T. H., do hereby certify as follows:

That the foregoing is a true and correct transcript of stenographic notes taken by me at a hearing held before the Hon. J. Frank McLaughlin, Judge, in the matter of the application of Lloyd C. Duncan for a writ of Habeas Corpus, on the 14th day of March, 1944, at 2:05 o'clock, p.m.

S/ ALBERT GRAIN

Mar. 18, 1944. [235]

[Title of District Court and Cause.]

TRANSCRIPT OF PROCEEDINGS

In the above-entitled matter, held in the U. S. District Court, Honolulu, Territory of Hawaii, on March 20, 1944, at 9:05 o'clock, a.m.,

Before

Hon. Delbert E. Metzger, Judge.

Appearances:

G. D. Crozier, Esq.,
U. S. District Attorney,
appearing for the Respondent;

Edward Towse, Esq.,
Assistant U. S. District Attorney,
appearing for the Respondent;

J. Garner Anthony, Esq.,
of the law firm of Robertson, Castle and Anthony.
appearing for the Petitioner.

Federal Court Building
Honolulu, T. H. [236]

PROCEEDINGS

The Clerk: Habeas Corpus No. 298, in the matter of the application of Lloyd C. Duncan for a Writ of Habeas Corpus, appearing on "Motion for an order granting enlargement of time within which to file return, answer, or otherwise plead to order to show cause."

The Court: Yes.

Mr. Crozier: If the Court please, I take it that your Honor is familiar with the motion and the affidavit attached thereto. I submit, if the Court please, that to a certain extent the motion and affidavit speak for themselves.

To refresh your Honor's knowledge of the status of this proceeding, the petition, if the Court please, was filed on March 14th at 11:35 a.m., and a brief hearing was had before his Honor, Judge McLaughlin, at two o'clock, at which time—after some discussion—Judge McLaughlin designated that 10 a.m., March 20, 1944, would be the time in which the response to the order to show cause should be made.

If the Court please, I assure the Court that no undue delay has occurred. And it is very much desired by the Respondent, and my office in representing him, and, as the motion and affidavit state, that an enlargement of time be granted within which to permit the representatives of the War Department and the Department of Justice to arrive in Hawaii and participate in the proceeding. And, if your Honor please, I call to your Honor's attention that this proceeding was brought prior to the time within which response to the order was directed by Judge McLaughlin.

I might furthermore call your Honor's attention, if the Court please, to Rule 6-B of the Rules of Civil Procedure, which reads as follows: [237]

> "Enlargement. When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause

shown may, at any time in its discretion (1) with or without motion or notice, order the period enlarged if application therefor is made before the expiration of the period originally prescribed or as extended by a previous order * * * ".

If the Court please, in view of that——

The Court: Well, that right has always been inherent in the Court. Has the Counsel for the Petitioner anything to say?

Mr. Anthony: Your Honor, no lawyer, and I am sure no court, desires to oppose a request of the chief law officer in the United States, which your Honor has before him. I would like to have some information from the U. S. Attorney, before I say what I have to say with respect to the motion. In this motion the U. S. Attorney appears for the Respondent, the Sheriff of the City and County of Honolulu, as his attorney.

I would like to know, first, whether or not there is any other counsel representing the Respondent in this proceeding. I think Mr. Crozier can answer that for me.

The second proposition I would like to have answered, and I believe I am entitled to have the information—I would like to know whether or not there has been any effort on the part of the U. S. Attorney to satisfy himself as to the request that I made at the initial proceeding. Your Honor unfortunately did not order the original order to show cause, at the time that the application was made for the issuance of a writ, believing as I did that under

the judicial code the Petitioner was entitled to it. Judge McLaughlin ruled to the contrary, pursuant to the rules of this Court, and issued an order to show cause. [238]

I could foresee at the outset that either purposely or otherwise we would be met with continual and continued delays in this proceeding, and for that very reason I suggested to the U. S. Attorney, if the Court please, that if the U. S. Attorney would release this Petitioner on bond to this Court, I would not oppose any continuance by the United States or by anybody else.

I pointed out at the hearing before Judge McLaughlin that this man is not charged with any act involving military security. He is charged with the simple case of assault and battery. And I thought in all fairness the U. S. Attorney should be willing to adopt my suggestion that the man be released upon bond pending the determination of this case.

I believe I am entitled to ask the question as to whether or not Mr. Crozier has asked the Attorney General his views in regard to the releasing of the Petitioner on bond pending the disposition of this proceeding. After I have had an answer to that, if Mr. Crozier is willing to give me an answer to it, I am prepared to say what my attitude is on this motion.

I repeat, nobody likes to oppose a request of the chief law officer of the United States, but I think I am entitled to know that.

Mr. Crozier: If the Court please, I submit that

the matters raised by Mr. Anthony are without the scope of the immediate motion, but I see no objection to answering those questions. At the moment there is no other counsel of record other than myself or my office. But, as indicated in the wire of Mr. Biddle to me, a representative of the Department of Justice is coming to participate in the proceeding. And I must say that further than that I don't [239] believe that there has been any further clarification.

Similarly on the second request of Mr. Anthony, which I submit, if the Court please, is without the scope of the consideration by the Court of this motion at this time. Yet I have no objection to answering his inquiry in that respect. If the Court please, at the hearing before Judge McLaughlin, at two o'clock on March 14th, the appearance by myself was specially in behalf of the United States, and I was in no position to consider Mr. Anthony's request in that respect. And I will state, and am perfectly free to state, that his suggestion or request has been brought to the attention of the Department of Justice and the parties concerned. At this time I am not in a position or authorized to reply to that suggestion or request, if the Court please. And I might further add, if the Court please, that not only at the request of the Attorney General of the United States was this request made for the enlargement of the time, but it is on request of myself and my office, if the Court please.

Have I, Mr. Anthony, answered your inquiries in the manner that you desired or contemplated?

Mr. Anthony: When was that wire sent to the department relative to the release of the Petitioner on bond?

Mr. Crozier: Well, I didn't state, Mr. Anthony, that it was a wire. It was definitely brought to the attention of someone in the Department of Justice. And I submit again, if the Court please, merely for clear thinking, that the two requests made by Mr. Anthony at the moment are not properly a part of the consideration. Is there any question, Mr. Anthony, of the facts as alleged in the motion?

Mr. Anthony: My purpose, your Honor, as to the first [240] request was, I thought, obvious—to ascertain whether or not the City and County Attorney had anything to do with this case. Here is a city and county official that is being brought into the Federal Court. I gather from Mr. Crozier's statement that the City and County Attorney has nothing to do with this case. He hasn't said that yet.

The other request that I made, I admit has nothing to do with this motion; but it has considerably to do with the attitude which the Petitioner takes before this Court. Having made what is conceded to be a very reasonable proposition to the U. S. Attorney, knowing full well that the U. S. Attorney would want continuances or a continuance rather, that was the purpose of my question. As I see the record, in view of the wire that is before your Honor—being a request of the Attorney-General of the United States—I don't see how the Court could do other than to grant the request.

But I would like to have it understood in making that statement, if your Honor please, and I contend that I should urge, and I will urge, the initial proposition that I made to the U. S. Attorney—I made it at the very earliest moment—that if further continuances are to be had in this proceeding, I will urge upon your Honor that this man be released on bond pending these continuances. And your Honor can see how intolerable any other situation would be. The man has already served almost a month in jail—no, 20 days. And if they should continue to apply to this Court for the extension and continuances, before the Court would get around to entertaining the cause, the case would be moot. All that the Petitioner would have left would be an action for damages against the Sheriff of the City and County of [241] Honolulu. I do not believe that the Petitioner is obliged to be subjected to that sort of proceeding.

In conclusion I say, in view of this request, I am not opposing the ten days that are here asked for.

There is one other thing I might add before closing; We have no knowledge, and I'm sure Mr. Crozier hasn't—I don't think he does—as to whether or not these individuals are on the way. I would think it would be highly unlikely that they would get here within the ten days, and that is why I again urge upon the U. S. Attorney a serious and prompt consideration of my request.

Mr. Crozier: I again state to the Court, if the Court please, that there has been no delay occurring since this proceeding came to the notice of the

U. S. Attorney's office. There has been no intent in any respect, if the Court please, to delay the proceeding. Out of courtesy to Mr. Anthony, in answer to his last inquiry—again on the question which is primarily within the scope of the Court's consideration at the moment—I cannot state as a fact that these representatives have left Washington. But I believe the expectation is, if the Court please, that they will be here well within the expiration of the ten days' period.

The Court: Well, you make no answer to Mr. Anthony's proposition. At this time, at this stage of the proceedings, the Court doesn't feel empowered to direct that this man be released on bond, but it certainly impresses the Court as being the proper thing to do. If the Court is to grant continuances upon an order to show cause as to why a writ of habeas corpus should not be issued after a petition has been duly presented to the Court some several days ago, I feel very reluctant about granting this motion. Some six days [242] have gone by from the time of the presentation of the petition before we get this motion for an extension of time for a hearing on the order to show cause. I feel as Mr. Anthony has expressed, that if we string the thing along far enough it will become moot, and that is not this Court's idea of dealing with a petition for a writ of habeas corpus. It isn't at all in line with the notions the Court has held for many years as to the manner of handling a petition for a writ of habeas corpus. It doesn't

seem to me to be in line with the clear statutes on the subject.

Do you believe that there is any manner in which your office can work out an agreement with the Counsel for the Petitioner so that the man may be released pending the hearing of his case, on a substantial bail bond?

Mr. Crozier: If the Court please, I don't believe I can properly comment on that at the moment. I do wish to say, however, that in all sincerity, as far as my office is concerned, there will be no further continuances made in the absence of the necessity therefor. Upon your Honor's original question, I can't state at the moment that I can give the Court any assurance that we can take a position in that respect.

The Court: Well, you don't feel inclined to move that way, I take it.

Mr. Crozier: That, if the Court please, is a matter that I don't believe I should properly discuss at the moment, as the participation of the Government in this matter is perhaps not as fully clarified as it may soon become. I feel that that is a matter that is not proper for consideration at this moment.

The Court: You can probably realize that the matter [243] of practice before the Court, particularly in a matter of habeas corpus, practiced by remote control is not very impressive. The Court, I, don't like it.

Mr. Anthony: Your Honor, there is one other thing that I'd like to have distinctly understood.

I omitted it in the beginning. The writ has not issued in this case; only an order to show cause. And I think we should have the assurance of the Respondent here that the prisoner will not be removed from his present custody. I think that it is only fair that the U. S. Attorney give the Court that assurance.

The Court: I wouldn't care to limit the Government, or the Respondent who holds the prisoner, from his discharge at any earlier time.

Mr. Anthony: I didn't mean that, your Honor. I didn't want him removed out to some other confinement where the sheriff can't obey the orders of this Court. That, in my judgment, would be clearly in contempt of this Court.

The Court: I should so regard it.

Mr. Anthony: And the U. S. Attorney should realize that.

The Court: The motion for a ten days' extension is granted the Petitioner. I should like to have the District Attorney inform the Attorney General that the Court is of the opinion, strongly, that in the meantime the Petitioner should be given an opportunity to have his freedom pending the determination of the order to show cause, upon the Petitioner furnishing a substantial bond fixed by the Court. I consider that ten days is sufficient time, barring unforeseen incidents or accidents, for the Department of Justice and Department of War to get attorneys here from Washington, if they make [244] a speedy effort to do so. And this is a case, as is any habeas corpus case, that calls for

and demands speedy and prompt action and attention.

Is there anything else before the Court at this time?

Mr. Crozier: I have prepared a written order, if the Court please, and have submitted it to Mr. Anthony, and I take it, Mr. Anthony, it meets with your approval as to form.

Mr. Anthony: Yes, satisfactory.

Mr. Crozier: May I ask the Clerk to hand it to your Honor? And that will be filed?

(The Court receives document referred to above and affixes signature.)

The Court: Yes.

(The hearing adjourned at 9:35 o'clock, a.m.) [245]

I, Albert Grain, Court Reporter, U. S. District Court, Honolulu, T. H., do hereby certify as follows:

That the foregoing is a true and correct transcript of stenographic notes taken by me in the Matter of Application of Lloyd C. Duncan for a Writ of Habeas Corpus, Habeas Corpus No. 298, held in the U. S. District Court, Honolulu, T. H., on March 20, 1944, Hon. Delbert E. Metzger, Judge, Presiding.

(Signed) ALBERT GRAIN

Mar. 21, 1944. [246]

[Title of District Court and Cause.]

TRANSCRIPT OF PROCEEDINGS

In the above-entitled matter, held in the United States District Court, Honolulu, Territory of Hawaii, on March 31, 1944, at 10:08 o'clock, a.m.,

Before

Hon. Delbert E. Metzger, Judge.

Appearances

G. D. Crozier, Esq.,
U. S. District Attorney, appearing for the Respondent;

Edward Towse, Esq.,
Assistant U. S. District Attorney, appearing for the Respondent;

Edward J. Ennis, Esq.,
Special assistant to the U. S. Attorney General;

Lt. Col. William J. Hughes, Jr., U.S.A.,
Judge Advocate General's Department;

Lt. Col. Eugene V. Slattery, U.S.A.,
Judge Advocate General's Department;

[248]

J. Garner Anthony, Esq.,
of the law firm of Robertson, Castle and Anthony, appearing for the Petitioner.

Federal Court Building
Honolulu, T. H. [249]

PROCEEDINGS

The Clerk: Habeas Corpus No. 298, in the matter of the application of Lloyd C. Duncan for a writ of habeas corpus, called for hearing on return to order to show cause.

Mr. Crozier: If the Court please, may I state for the record, and for your Honor's information, that the Attorney General of the United States has designated Mr. Edward J. Ennis as special assistant to the Attorney General to assist the U. S. District Attorney for the District of Hawaii in representation of the Respondent in this proceeding?

The Court: Very well.

Mr. Ennis: With the Court's permission, I would like to state preliminarily that, as the Court knows from our discussion in the chambers, it is the Government's position where the privilege of the writ is suspended, it should not issue and the Petitioner should not be bailed; but, in view of Mr. Anthony's suggestion that, in fairness, the Petitioner ought to be in Court when his case is presented. The Government has requested the Sheriff to be present and to have the Petitioner present. The Petitioner has been asked if he would like to be present, and he said Yes. And we will produce him in Court and have him present with the Sheriff, without, however, waiving our legal contentions that the writ should not issue and the Petitioner should not be bailed.

Mr. Anthony: If the Court please, the day before [250] yesterday, I was handed a rather voluminous document which contains a great many allega-

tions, as I conceive, most of which are utterly irrelevant to any issue in this cause. And I have thus far not completed a traverse. I would like at this time to enter an oral traverse and advise the Clerk that I am prepared to file a traverse in writing, which will deny all the material allegations set forth in this order to show cause.

The Court: You may make your traverse orally. Do you wish to do so?

Mr. Anthony: Yes, I wish to do so.

The Court: Very well.

Mr. Anthony: The Petitioner in this cause denies all of the material allegations which are set forth in the return and the answer to the order to show cause, and the Petitioner reiterates his contention that the writ of habeas corpus should issue, that the writ should issue forthwith. The cause can then be heard upon this return, which could be adopted by the Government as a return to the writ itself, and then the Court could proceed to an orderly determination. I would like to address myself at this time, if I may, to the proposition of whether or not the writ should issue at this moment, without passing upon the facts set up in the order to show cause and the return to the order to show cause, if I may do so.

The Court: Well, that is the matter that is before [251] the Court at this session: should the writ issue?

Mr. Ennis: If the Court please, I would like to make an argument, a legal argument, against the issuance of the writ, to be heard by your Honor

either now or after Mr. Anthony, as your Honor directs.

The Court: You may be heard now.

Mr. Ennis: The Government has two legal points that it would like to make on the question of whether the writ should issue at this time. The first is based upon the legal proposition that where, upon the petition and the return to the order to show cause and to the petition, it appears to the Court that there is no issue requiring testimony or further proceedings, the Court can at this time dismiss the petition and deny a writ.

As I see it, your Honor, the purpose of the order to show cause procedure, which has the sanction both of the rule of this Court and of the Supreme Court, is to give the Government an opportunity by a return to indicate to your Honor the legal or factual reasons why a writ should not issue and why the petition should be discharged.

As I read the petition and the return, the Petitioner seeks to raise two questions, one, a legal question, which we might call the statutory question as distinguished from Constitutional questions—the statutory question being, whether the Executive Branch of the Government has complied with the mandate of Congress which requires that the privilege [252] of the writ shall be suspended and martial law shall be declared when the conditions of public safety require it and imminent danger of invasion is present. As I take it, the Petitioner's first contention is that those conditions are not present.

His second contention, which I call the Constitutional contention, is, whether or not we have complied with the requirements of Congress and whether or not the privilege of the writ is Constitutionally suspended under the statute, and whether or not martial law is present under the statute, that there is no military necessity and therefore unreasonable and un-Constitutional for the Government, the military authorities, to try Petitioner before a military tribunal for the offense of assault and battery on a military sentry with the intent to impede him in his official duties.

Now, the only issue of fact which could be raised by the petition and return, as I read it, is whether or not there is any imminent danger of invasion, and whether or not public safety requires suspension of the privilege of the writ, and martial law being in effect. That would be one question.

The second question is, whether or not there is any military necessity requiring the trial of such a case as the Petitioner's before the Provost Court.

Now; on those issues of fact the Government has submitted the affidavits of the highest military authorities in the [253] Territory, Admiral Nimitz and General Richardson. And in their affidavits they recite, both, that there is imminent danger of invasion and the public safety requires the suspension of the privilege of the writ, and martial rule; and, also, that military necessity requires the trial of such cases as here involved before a Provost Court.

Now, it is my contention very simply that, where the only source of evidence upon those facts, the only reliable source, is the military authorities, and where the highest military authorities in the Territory have stated the view of the military authorities on the question, there is no triable issue of fact; and the Court can properly, on the petition and the return, dismiss the petition and deny the writ. The procedure the Court would be using, if it did that, would be very analagous to the summary judgment procedure where the Court, on affidavits, determines that there is no reasonable issue of fact, no substantial issue of fact, and under modern practice is empowered to dispose of the case without a trial, including testimony.

I will not elaborate on that first point of the Government's position because it is, I think, pretty clear what we mean. And I will now address myself to the second proposition, and that is, that if the Court perceives in its examination of the pleadings that there is a triable issue of fact, we address ourselves then to the technical and procedural question of whether we should get at that issue [254] of fact by merely fixing a trial date on the pleadings as we now have them—the petition and return to the petition and order to show cause—or whether before doing so the Court should issue the writ of habeas corpus.

Now, on that question, that procedural question, my observations are these, that if the privilege of the writ had not been suspended, so far as the Executive Branch in the exercise of its Constitu-

tional powers can do so, it would seem to me, under the controlling rule of Walker versus Johnston, that where the Court perceives an issue of fact the proper practice is to issue the writ; and upon a return to the writ, whether it be a new return or whether the return to the order to show cause be adopted as the return to the writ, to try the issues by testimony. Now, it is my view that, whether or not we have sought to suspend the privilege of the writ, the better practice would be to try the issues at this stage of the case, on the present return and petition, and to postpone the issuance of the process of the Court, the writ, until the Court had decided that either we have not complied with the statute or we have not complied with the Constitution, and therefore the privilege of the writ is not suspended.

My reasons for proposing that procedure to the Court are these: In determining the proper judicial procedure, it is not sufficient for us to refer to one statute of Congress, namely, revised statute, Section 755, which controls [255] the procedure in habeas corpus in the ordinary situation where there has been no effort to suspend the privilege of the writ; as I stated, in the Walker versus Johnston case, if your Honor would perceive an issue of fact, you would issue a writ. But we must look for a proper rule of judicial procedure. By reading that statute, the general statute, with the specific statute which is involved in this situation, namely, Section 67 of the Organic Act, which provides for the suspension of the privilege of the writ, the Court, I submit, should devise its procedure to take into

account the different purposes of Congress in the general statute and the specific enactment here.

Now, in urging that the Court try any issue of fact without issuing the writ, I would like to call the Court's attention, as an analogy, to the Congressional provision where there is a suspension of the privilege of the writ—and, as far as I know, in the history of the United States Congress has provided the procedure where the privilege of the writ was suspended in only one instance, namely, in the Act of 1863, controlling habeas corpus procedure in the courts, where the President, as the statute said, during the course of the rebellion has suspended the privilege. And in such a case Congress said that the writ might issue, but that any person held by the military authorities, that there should not be a body return to the writ but merely a written, sworn return stating the cause of detention. [256]

Now, in speaking of that statute the Supreme Court of the United States, in ex parte Milligan, stated that the suspension of the privilege of the writ does not suspend the writ itself, but that the return to the writ should be the written return giving the cause for detention and not a return of the body.

Now, these analogies take us to this position, that I think we should recognize that where the privilege has been suspended, the Court giving some recognition to the Executive Department's suspension of the privilege, pursuant to Act of Congress, will modify its normal writ procedure to some extent.

Now, the precise question, the procedural question, as I see it, is whether the Court should issue

the writ and modify its terms to require a return, a return return, but not require production of the body until the Court decides the case; or whether, exercising the tradition of judicial restraint which the Federal Courts always exercise in approaching either an act of the coordinate branch of the Government, the Executive Branch, or a Constitutional question, the Court should even go a step further and not issue the writ at all but merely state that upon the return being filed the issues will be tried, and the issuance of the writ will be postponed until the Court, upon the trial of all of the issues, makes a determination on the statutory and the Constitutional question. [257]

Now I propose this last course, namely, that the writ shall not issue but that we try any issue the Court perceives, although, as we say, we perceive no substantial or triable issue. I propose that course as the one that certainly will not prejudice the Petitioner. I think it will indicate to the public and to everyone at large that the Court, in exercising its judicial function and the most important function of determining such issues, is devising a procedure and is exercising a procedure which, pending determination, interferes as much as necessary to protect the Petitioner, and permits the ordinary operation of the Executive Department.

And, therefore, for the reasons I have stated—and I'd be glad to submit a memorandum to your Honor on it—I suggest, first, that the writ not issue, but that if the Court determines, on the basis of the precedent, that it is proper to issue a writ, despite

the suspension of the privilege, then that it be merely the writ, the written return, and not direct production of the Petitioner in Court at this time.

Now, a wholly separate question to which I wish to address myself, apart from the procedural question, is the question of whether the Petitioner should be placed on bond at this time. And I don't know whether your Honor would prefer me to proceed to that separate question or whether you prefer to hear Mr. Anthony on the issuance of the writ.

The Court: Yes, I would rather hear the particular matter that is before the Court now. [258]

Mr. Anthony: If the Court please, the two points that the Attorney General has stated to your Honor, one, that there is no triable issue of fact, and, two, the procedural means of how this case should be tried, are quite evidently wholly inconsistent. If it is the law of this Court that, upon the simple filing of an affidavit by an Admiral and a General, this Court may look no further into the facts which the Court has full knowledge of, and which probably everyone in this courtroom has full knowledge of, namely, the absence of imminent danger of invasion, then there is no need to discuss the procedural question whatsoever. I gather that Counsel is not relying too heavily upon that, since he has filed a very elaborate return setting up a great many facts,—rather, having the Sheriff setting them up—on information and belief, which facts presumably must be proved by some witness. They are not proved by either the Admiral or the General. I gather from that situation that he does

not rely really, truthfully, upon the contention which is their preliminary contention, namely, that there is no issue of fact, that all this Court may do is to dismiss this petition and remand the prisoner to his jailer.

I will turn to the next proposition which Counsel devoted most of his time to. This case, if your Honor please, does not involve any question of military security. This is a very simple offense. If this Petitioner has committed an offense, it is a very simple one, namely, he has assaulted, [259] so it is said, two marines on a Naval reservation. This Court, for more than a year, has exercised a full criminal jurisdiction—this Court exercises full criminal jurisdiction over assault and battery which is committed on Naval reservations. If it is the fact that this man has done anything which would warrant his trial and conviction, the Courts are open, this Court is open; he could be brought into this Court upon an information under the judicial code for a commission of the alleged crime of assault and battery on a Naval reservation.

Now, I say that is not an issue which in any way relates to the security of these islands. He is not charged with being a subversive character. Your Honor can look at him and see that he is not a Japanese, although Petitioner has made verbose allegations as to Japanese. All we are saying here is that this individual, a citizen of the United States who is charged with nothing which even remotely resembles a cause which is properly triable before a military tribunal, should be given a trial in accord-

ance with the Constitution and the laws of the United States.

Now, that being so, what is the procedural objection, as Mr. Ennis styles it, to the issuance of the writ and the trial of the case in the normal and orderly course as contemplated by the judicial code? He can't get away from the Territory if he wanted to. Your Honor knows and can take judicial notice of the fact that transportation is entirely [260] within the control of military and naval authorities. More than that, this Court has ample power, should it later determine to issue the writ, to enlarge him upon bond made returnable to this Court. What, then, is the basis for the Government's contention? How can the United States of America be injured by the issuance of this writ? Mr. Ennis says that this is a procedural matter. I say to Mr. Ennis, and I say to this Court, if Mr. Ennis were down in the county jail he would think it more than a procedural matter.

I say, if the Court please, that this is an invasion of the civil liberties of this Petitioner. He has been denied, according to the allegations of the petition, the kind of a trial which the Constitution says he may have. And when we come before this Court in order to ascertain whether that is correct, we are met by a statement on the part of the Government that for reasons of procedural convenience Counsel requests and asks this Court not to issue the writ.

I say, if the Court please, that this case has not thus far been conducted in the manner which the

judicial code contemplates habeas corpus proceedings should be conducted, namely, in an expeditious and speedy manner. And this matter grew out of deference to Mr. Ennis and the Attorney General of the United States at the hearing on the motion for a continuance, which I joined. However, we have now reached the stage where there are sharp issues of fact to be determined [261] by this Court.

Why should the Petitioner be obliged to not have the writ issue and not be able to be in a position to ask this Court that he be enlarged on bail pending a lengthy trial on the facts of the issues raised by this very elaborate return? More than that, undoubtedly at the conclusion of the trial the U. S. Attorney and the Attorney General and the Army would probably ask time for the filing of briefs. That time will go on. Possibly they will come in and ask for an extension. In the meantime, the Petitioner is still down in the jail.

Now I say that this Court, without passing upon the merits of the facts set forth in the return, should not adopt a procedure which shall deprive this Petitioner a means of applying to this Court for his enlargement on bail. And that is precisely what will be done if the suggestion of the Attorney General is followed in this case.

Mr. Ennis: The only comment in reply that I would like to make, your Honor, is that I understand that, although the civil law may provide for the trial of the offense of simple assault committed on a military reservation, there is no civil provision for the offense with which the Petitioner was

charged, of an assault upon a military sentry with intent to interfere with the performance of his duties, which is expressly provided as a military offense.

Now, as I take it, we have not yet come to the equitable [262] balance of convenience on the question of bail, and so far I have addressed myself merely to the question of whether the Court should issue the writ. And I will just conclude by saying that at the very minute if the Court decides to issue the writ, I hope that the Court will follow what I consider the controlling precedent of the Milligan case, which says that where the privilege of the writ has been suspended, pursuant to the Act of Congress, the writ when issued shall require a written return but shall not require the production of the body of the Petitioner in Court.

Now, if the Court issues the writ in that fashion, or decides to issue the writ in that fashion, the Government is prepared right now to argue out the question of whether in your Honor's judicial discretion the Petitioner should be released on bond pending the trial of any issues that your Honor perceives in the case. I will address myself to that question, or wait until your Honor's ruling, if you wish.

The Court: I have read the return made by the Respondent to the order to show cause, whether the writ should issue, and I have examined all of the exhibits, all in all more than 175 pages. I have read with particular interest the affidavits made by General Richardson and Admiral Nimitz. The

question properly presented before the Court at this time is, should a Writ of Habeas Corpus be issued in this case upon the showing made in the petition and in the return to the order to show cause? [263]

The question as to martial law was raised in the petition and went into a considerable length in the return. Both parties seem anxious to make that an issue and bring it to a trial. They have made it an issue. It is quite conceivable, to my mind, that martial law could exist in a place without the suspension of the writ of habeas corpus. Now, this Court has already held that the earlier proclamation as to the suspension of the writ—the proclamation of Governor Poindexter on December 7, 1941—was annulled and the privilege of the writ was restored by the Governor's proclamation of February 8th, effective March 10th, 1943.

By the order to show cause, issued out of Judge McLaughlin's division of the Court, it implied invitation to present material to convince the Court of the error of that finding. But I have seen nothing in the return which convinces me that the Court was in error there. I believe that, upon the allegations of the petition and the statements made in the return to the order to show cause, there is before the Court a sufficiently substantial showing to justify and demand that a writ issue in this case.

Accordingly, it is the order of the Court that a writ do issue returnable tomorrow morning at nine o'clock, if that is an agreeable time to Counsel.

Mr. Ennis: If the Court please, I assume that

the writ will be in the usual form and require the production of the body? [264]

The Court: Yes.

Mr. Ennis: May I have an exception to the ruling?

The Court: Yes.

Mr. Ennis: I don't wish to disturb your Honor's procedure. Of course, we would be delighted to go on tomorrow morning, if your Honor wishes to and the opposing Counsel agrees. I would be entirely content to state on the record that we could deem that the Petitioner is now produced, that the writ issue forthwith, and that the Petitioner is deemed produced pursuant to the writ, and proceed at once to the bail question.

The Court: That is satisfactory to the Court, then. Mr. Clerk, let the writ issue, returnable forthwith.

Mr. Ennis: I have no objection to the form of the writ, your Honor.

(A typewritten document is handed to the Court.)

The Court: You have prepared this, Mr. Anthony?

Mr. Anthony: Yes, your Honor.

The Court: Anticipatory?

Mr. Anthony: I had it before Judge McLaughlin, your Honor, and I was disappointed. As a matter of fact, it does have Judge McLaughlin's name on it. The Attorney General calls my attention to that fact. I will have it retyped.

The Court: Instead of "forthwith" I made it returnable at ten o'clock forty minutes, in order to not change the general form of it. [265]

(The Court affixes signature on the document.)

Mr. Ennis: If the Court please, and in the interest of further expedition of the matter, which is also the Government's interest, I request that the return filed by the Govrnment to the order to show cause be allowed, with the Court's permission, to stand as the return to the writ, with Counsel's permission.

The Court: That is allowed. The return filed is, to my mind, quite an appropriate one as a return to the writ. Let the record show that at this hour, 10:40 a.m., the Sheriff of the City and County of Honolulu, Duke P. Kahanamoku, appeared and was present in the Court with the Petitioner, his prisoner, Lloyd C. Duncan.

Mr. Anthony: May I speak to Counsel for just a minute?

The Court: Yes. Do you want a recess at this time?

Mr. Anthony: We might have a short recess.

The Court: Very well.

(A short recess was taken at 10:40 o'clock, a.m.)